Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

COMPILED BY
THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS

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BACKGROUND INFORMATION

Clandestine drug laboratories are hidden facilities that are equipped and used for the production of illegal drugs. The U.S. Drug Enforcement Agency defines a clandestine drug laboratory as "an illicit operation consisting of a sufficient combination of apparatus and chemicals that either has been or could be used in the manufacture or synthesis of controlled substances."[1] Methamphetamine is produced in either small toxic laboratories, often referred to as "mom and pop" labs, that produce small quantities of illegal drugs each production cycle (typically enough for the manufacturer's personal use with the left over being sold to finance the next production cycle) or superlabs, labs that produce ten (10) pounds or more of methamphetamine each production cycle. Labs can be found in rural, urban and suburban areas in just about any place they can be assembled, including private residences, apartments, condos, garages, sheds, barns, commercial buildings, vacant buildings, recreational vehicles, motor homes, hotel and motel rooms, cars, and boats.

Methamphetamine-producing laboratories are the most common type of clandestine drug laboratory found in the United States, though labs that produce other types of drugs such as LSD, ecstasy, and GHB are widespread. In 2004, 98% of seized laboratories were producing methamphetamine, in contrast to 82% in 1989.[2] Production of methamphetamine is surprisingly

[1] U.S. Department of Justice Drug Enforcement Agency, *Guidelines for the Cleanup of Clandestine Laboratories*, 44 (2005).
[2] U.S. Department of Justice Drug Enforcement Agency, *Guidelines for the Cleanup of Clandestine Laboratories*, 14 (2005).

simple, and can be accomplished by almost anyone with basic, high-school level chemistry knowledge. Labs are typically operated by inexperienced individuals who have no knowledge of the hazards associated with the chemicals being used in the production of the controlled substances. Methods of production are readily available on the internet or in publications. The majority of the chemicals needed to produce methamphetamine are common household products or products that are easily acquired at local stores and thus difficult to regulate, including chemicals or items such as rubbing alcohol, lithium batteries, cat litter, and farm fertilizer. These common products used in combination with cold, sinus and asthma remedies containing ephedrine, pseudoephedrine and phenylpropanolamine ultimately lead to the production of methamphetamine.

Over the past several years, stricter state and federal laws coupled with tighter international chemical controls have made it increasingly difficult for meth producers to obtain the ephedrine, pseudoephedrine and phenylpropanolamine, commonly referred to as precursor chemicals, needed to make methamphetamine. Throughout the years, numerous federal and state laws and regulations have been passed in an attempt to limit the production of methamphetamine. The federal government most recently passed the Combat Methamphetamine Epidemic Act (CMEA) to curtail the production of methamphetamine.[3] Among other restrictions and limitations, the CMEA regulates over-the-counter sales of ephedrine, pseudoephedrine, and phenylpropanolamine, limiting amounts of each precursor chemical a retail store is able to sell to

[3] Combat Methamphetamine Epidemic Act of 2005, P.L. 109-177, 120 Stat. 192 (2006).

a single consumer per day and the amount a single consumer is able to purchase each month.[4] As a result, the Office of National Drug Control Policy (ONDCP) reports domestic meth lab incidents have decreased by more than 70% since 2004.[5] ONDCP further reports that superlabs are at a 10 year low.[6]

Though the number of reported meth lab seizures has been reportedly decreasing over the past several years as a result of domestic legislation and enforcement efforts, states are still faced with the issue of what to do with the numerous contaminated properties that exist. Further, states are beginning to report a resurgence in the number of small toxic labs and a general increase in capacity at some clandestine drug laboratories as meth producers adapt and develop ways to circumvent federal and state restrictions.[7] It is also important to note that many nations around the world have large, complex chemical industries that have yet to develop the law enforcement and regulatory capacity to prevent precursor chemicals and pharmaceutical products from being diverted into the illegal market.[8] As a result, chemicals from these nations are increasingly being smuggled into the United States for use in the production of illegal substances.

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[4] Combat Methamphetamine Epidemic Act of 2005, 21 U.S.C. §830 (2006).
[5] Press Release, Office of National Drug Control Policy, Methamphetamine, Cocaine Use Plummet; New Workplace Drug Testing Data Show Effects of Supply Crunch (March 12, 2008), http://www.whitehousedrugpolicy.gov/news/press08/031208.html.
[6] Office of National Drug Control Policy, Executive Office of the President, *Current State of Drug Policy: Successes and Challenges*, 7 (March 2008).
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[8] Press Release, U.S. Department of Justice, U.S. Calls on Global Producers to Help Develop Increased Chemical Controls for Meth Precursors, Controlled Pharmaceuticals; Lauds Mexico as Example of Effective International Cooperation Against Meth Production, Trafficking (May 7, 2008), http://www.usdoj.gov/opa/pr/2008/May/08_opa_384.html.

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THE ISSUE

There are two specific areas of controlled substance laboratory cleanup, commonly referred to as "removal" and "remediation". Removal occurs after law enforcement officers discover and seize a laboratory. Law enforcement personnel secure and assess methamphetamine laboratory sites, then identify and dispose of drug manufacturing equipment and chemicals. Removal is performed by certified professionals who are trained to handle and dispose of hazardous waste materials. Remediation addresses the residual contamination that exists after the drug manufacturing equipment and chemicals have been removed. Remediation of the property becomes the responsibility of the property owner, or in some instances the responsibility of a political subdivision. Remediation refers to the subsequent cleaning process that ensues to remove residual contamination and render a property safe for human habitation. This compilation focuses on state statutes, regulations and guidelines that are relevant to remediation of a property that has been contaminated by the production of controlled substances. Therefore, for the purposes of this compilation, terms such as cleanup will generally refer to remediation unless otherwise noted.

The methamphetamine epidemic is one that affects the entire nation. Properties that are used as methamphetamine laboratory sites almost always exhibit residual contamination from the drug manufacturing process, and pose significant environmental and health threats.[9] Chemical

[9] *See* John W. Martyny, Ph.D. et al., National Jewish Medical Center, *Chemical Exposures Associated with Clandestine Methamphetamine Laboratories Using the Hypophosphorous and Phosphorous Flake Method of*

compounds vaporize, becoming airborne during the manufacturing process, leading to inevitable contamination of surfaces throughout the interiors of buildings and vehicles: countertops, appliances, walls, ceilings, carpet, furniture, upholstery, clothing and children's toy will evidence some level of contamination after a production cycle. For each pound of methamphetamine produced, five to six pounds of toxic, hazardous waste is generated.[10] This waste is often stored on the property, burned, buried or dumped into the environment both on and off site, poured down drains, or deposited in commercial trash bins. The manufacturing process and the manufacturing byproducts result in residual property contamination that can last for years. People who enter or live in former contaminated properties can be exposed to this contamination through breathing the air or touching contaminated surfaces. Small children may be at particular risk of exposure because they engage in behavior that will transfer contaminants from objects or their hands to their mouths where the chemicals are swallowed. While much is still unknown about both the long-term hazards presented by the residual contamination and the effects of long-term exposure to residual contamination, states confronting the myriad of issues presented when a controlled substance laboratory is discovered and addressing them with laws, regulations, and policies.

In spite of uncertainty and a lack of both human and financial resources, states are being forced by the severity of the methamphetamine epidemic to formulate detailed responses to many of the

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Production, September 23, 2005; John W. Martyny, Ph.D. et al., National Jewish Medical Center, *Chemical Exposures Associated with Clandestine Methamphetamine Laboratories Using the Anhydrous Ammonia Method of Production*, March 2004.

[10] U.S. Department of Justice Drug Enforcement Agency, *Guidelines for the Cleanup of Clandestine Laboratories*, 18 (2005).

dilemmas presented by clandestine drug laboratory sites. These responses include but are not limited to: (1) training law enforcement and other responders to identify labs and remove drug manufacturing equipment and chemicals; (2) controlling the sale and distribution of precursor chemicals; (3) enforcing laws which prohibit the manufacture of controlled substances; (4) enacting real estate disclosure legislation; and (5) developing and implementing statutes, regulations and guidelines that comprehensively address the remediation of contaminated properties.

WHAT APPEARS IN THIS COMPILATION

This compilation includes citations to those statutes, regulations and guidelines that NAMSDL has located through research and contact with state and local officials that are relevant to properties where the production of controlled substances has occurred. Guidelines are drafted both with and without statutory or regulatory authorization. States that draft guidelines without authorization do so to provide some guidance to property owners and remediation contractors involved in the remediation of contaminated properties – the requirements or suggestions outlined in unauthorized guidelines are not enforceable. Those guidelines that are drafted with statutory or regulatory authorization are enforceable. For the purpose of this compilation, the use of "guidelines" refers to those guidelines that have statutory or regulatory authorization. Therefore, the guidelines that are cited in the State Citation List, and those excerpts included

throughout the document are from guidelines that are, or at least appear on their face to be mandatory, and are thus enforceable.

The citations found in this compilation are specific to methamphetamine laboratory cleanup or clandestine, illegal drug manufacturing sites. It is possible that a state uses some other provision that NAMSDL was unable to locate because it does not specifically refer to the remediation of property that has been contaminated by a controlled substance, i.e. states may use general hazardous waste statutes, or statutes based on tort law to effectuate the remediation of properties contaminated by the manufacture of controlled substances.

Additionally, this compilation does not include statutes that are pertinent to civil proceedings based on the commission or creation of a nuisance, even where properties contaminated by controlled substance laboratories are specifically referenced. An actionable nuisance is a condition or situation that interferes with the use or enjoyment of property. If a nuisance is created, a civil suit may be initiated against the person who is committing or who has created the nuisance, requiring that the nuisance be abated. The process associated with a civil court case based on an actionable nuisance differs greatly from the enforcement of remediation statutes and regulations (which typically don't involve the court system). To date, NAMSDL has discovered that the following states are using nuisance law to remediate properties, or have nuisance language in statute that is relevant to properties that are contaminated by the manufacture of controlled substances: California, Hawaii, Minnesota, Oregon and Pennsylvania. While California, Hawaii, Minnesota and Oregon also have comprehensive remediation statutes and

regulations, Pennsylvania doesn't have remediation specific statutes or regulations. However, it is important to note that Pennsylvania is addressing the cleanup of contaminated properties, as it is likely that other jurisdictions are doing so, through a different legal mechanism.

This compilation includes nineteen (19) principal themes that NAMSDL has identified that are specific to properties where controlled substance laboratories have been found. To date, NAMSDL has identified thirty-seven (37) states that have addressed one or more of the aforementioned principal themes. These themes encompass the core issues associated with properties contaminated by controlled substance laboratories with which states have grappled and subsequently addressed in statutes, regulations and/or guidelines. These themes are as follows:

- Methamphetamine Lab Determination & Appeal of Determination
- Notice to Agency
- Notice to Property Owner(s)/User(s)
- Posting
- Publically Accessible Property Registry/Database & Removal of Property from Publically Accessible Registry/Database
- Property Title Encumbrances
- Disclosure Required by Seller, Lessor, or Transferor
- Property Use Restrictions & Exceptions to Restrictions

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- Penalties
- Remediation Contractor Requirements
- Feasibility-Based Standards
- Demolition of Property in Lieu of Remediation
- Property Owner Liability
- Independent Sampling/Testing Contractor Requirements
- Last Action
- Property Owner Immunity
- Liability of Person Responsible for Lab
- Other State Sources of Cleanup and Remediation Funding

This compilation provides specific language from state statutes, regulations, and guidelines that NAMSDL has been able to locate through research and contact with state and local officials thus far. The compilation is broken into nineteen (19) sections; each section representing one of the nineteen (19) aforementioned principal themes. The sections begin with a brief explanation of the principal theme that follows. Following the explanation, where appropriate, the reader will find a U.S. map indicating which states have addressed that specific theme. A listing of states presented in alphabetic order follows, with specific and related citations to the applicable statutes, regulations, and/or guidelines and websites, as well as the exact language used by the state for the corresponding principal theme. The precise language employed by each state has intentionally been used because of the significant intricacies necessarily presented by the issue,

and also to provide the reader with a tool to compare and contrast the specific language each state uses.

This compilation does not include language from statutes, regulations or guidelines outlining how the actual remediation process is to be completed. States vary considerably in their requirements, including how many samples are to be taken, how large the sample area must be, where samples must be taken, and what procedures have to be completed and certified to the appropriate oversight agency in order before a property may be deemed remediated. The reader should consult the state's statutes, regulations and guidelines, and contact the appropriate state agency for further information pertaining to the actual remediation process and requirements.

Please note that the information contained in this document represents an ongoing research effort in this arena and in no way does NAMSDL wish to represent that NAMSDL is an expert on any state's laws or regulations. In particular, NAMSDL understand that states may be using many different categories of laws for cleanup because of the wide breadth of this issue. States may have additional methodologies, operating procedures and practical application techniques which we have not yet discovered. NAMSDL strongly encourage the reader to contact the appropriate state authority or agency for any further clarification, analysis, or proper guidance that may be required regarding the intricate workings and application of these laws. As NAMSDL continue to work with its partners and experts in the scientific, law enforcement, medical, environmental and public health communities, NAMSDL will provide additional information, updates and analytical data.

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STATE CITATION LIST

The citations found in this document are those that NAMSDL has located to date, relevant to the enumerated issues and themes this document covers, and specific to properties that have been contaminated by controlled substance laboratories. It is important to note that other state statutes, regulations, and/or guidelines may be used to effectuate remediation of contaminated property, while not specifically referring to methamphetamine labs or clandestine drug labs. Therefore, if a state uses non-methamphetamine specific legislation, regulations or guidelines to remediate methamphetamine labs or clandestine drug labs, those statutes and/or regulations will not be found in this compilation.

The citation list includes only those statutes, regulations, and guidelines authorized by either statute or regulation. If a state has drafted a guidance document that is not authorized by a statute or regulation, a citation for the guidance document will be footnoted, but note that language relevant to the themes outlined in this compilation that are contained in the guidance document will not be found in this compilation.

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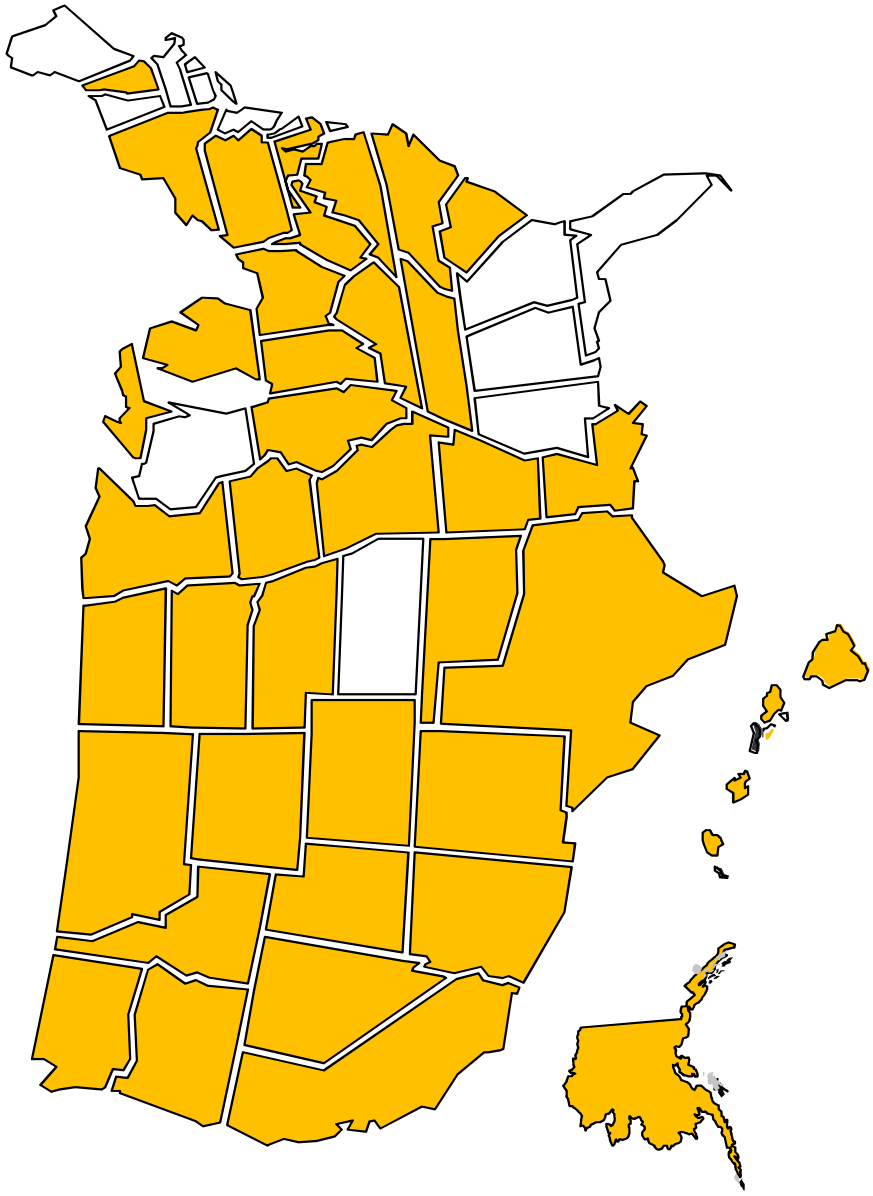
STATES THAT HAVE ADDRESSED ONE OR MORE OF THE PRINCIPAL ISSUES OUTLINED IN THIS COMPILATION



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METHAMPHETAMINE LAB DETERMINATION & APPEAL OF DETERMINATION

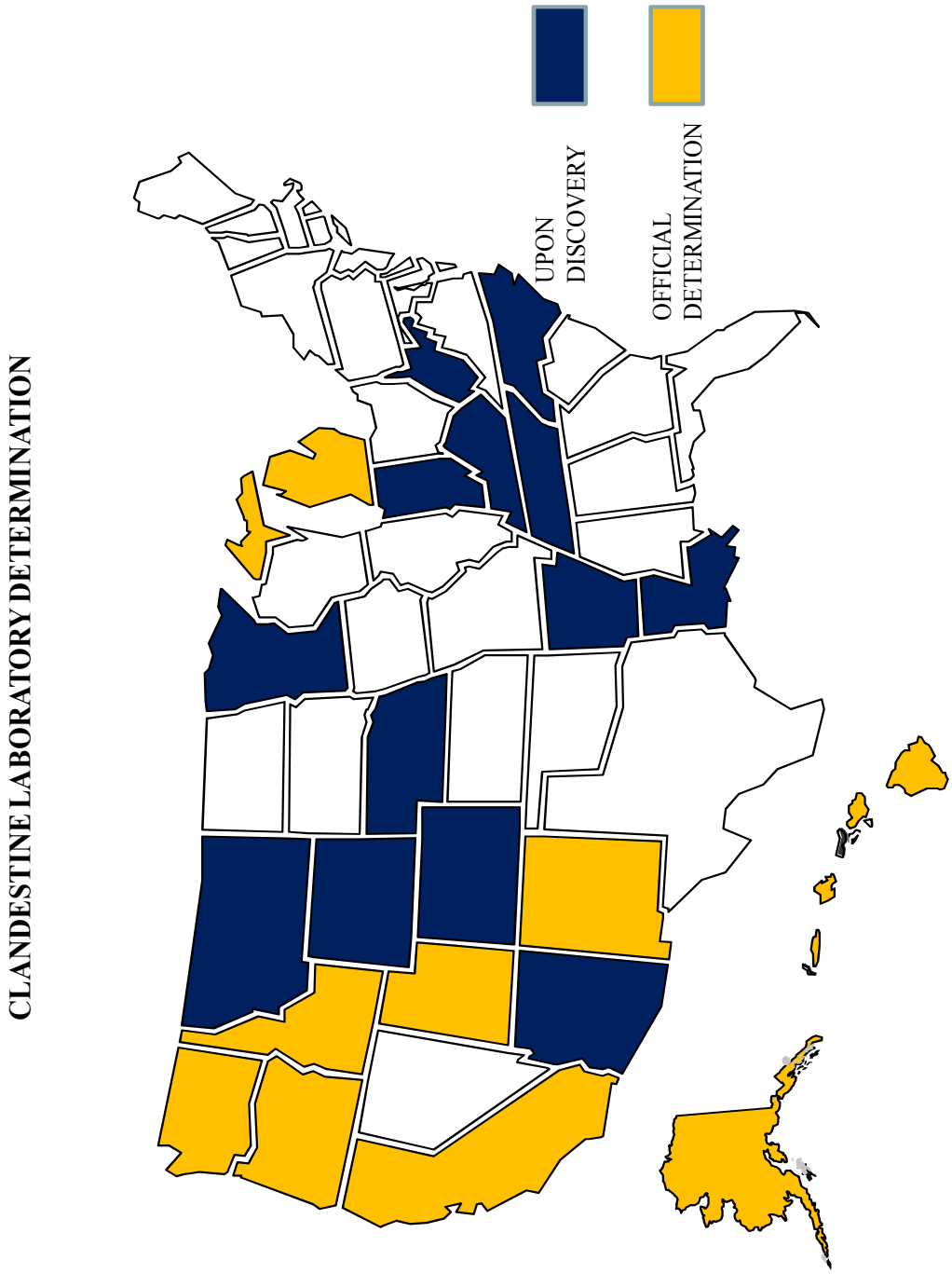
This section generally outlines the key elements in the identification of a contaminated property that subjects a property to the state's remediation requirements and the process by which a property owner may appeal the determination that a property is a lab site, if it exists. The determination revolves around three key points: (1) the definition of what constitutes a controlled substance laboratory operation; (2) what types of property are subject to remediation requirements; and (3) how the existence of a lab is determined thereby triggering remediation requirements.

The definition of a lab and the definition of property are key triggering elements. Controlled substance laboratories are defined based on the types of controlled substances or precursor substances found on the premises, or the type of action that occurred on the property. Property definitions outline the types of properties where labs are found that will be subject to remediation requirements. The types of property defined by each state vary, and can include single and multi-family dwellings, hotels, motels, recreational vehicles, mobile homes, gardens, sheds, cars, and shops. Generally, only the types of property that are described in the statute will be subject to remediation if a lab that meets the state's definition was operated on or in the specific property.

The "methamphetamine lab determination", for the purposes of the language you will find in this section, indicates both the process by which some states make a formal determination of the existence of a lab, and other states in which a lab is deemed to exist upon its discovery. If the determination is made by a formal inquiry/investigation, the entire statutory or regulatory section(s) will be included. If, however, first discovery triggers the determination of a lab, specific language indicating the existence of a lab generally does not exist, but rather language directing the discovering agency to perform some action or series of actions exists. This language directing further action is included.

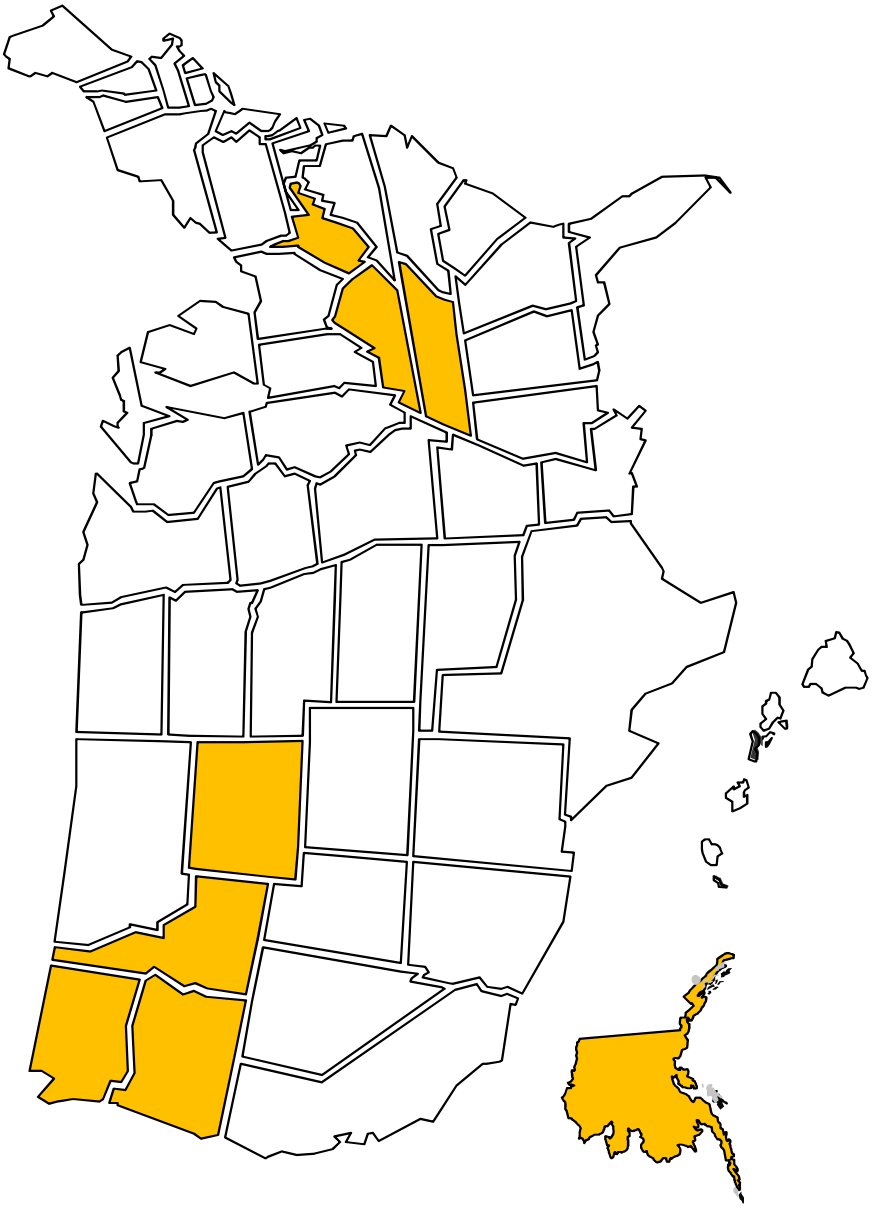
The appeal of the determination generally refers to that process by which the owner of the alleged contaminated property or a person who holds an interest in the alleged contaminated property may appeal the determination of the labs existence. This process provides due process to those property owners/interest holders, as in some instances the existence of a lab triggers stringent restrictions on property until remediation has occurred.

Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found



Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

STATES WITH STATUTES, REGULATIONS OR GUIDELINES THAT ALLOW A PROPERTY OWENR OR PEROSN WHO HOLDS AN INTEREST IN THE PROPERTY TO APPEAL THE DETERMINATION



METHAMPHETAMINE LAB DETERMINATION & APPEAL OF DETERMINATION

ALABAMA

- NOT FOUND

ALASKA

"Lab" Definition

- ALASKA STAT. § 46.03.599.1 (2008): In AS 46.03.500 - 46.03.599,

  (1) "illegal drug manufacturing site" means property on which there is reasonable cause to suspect contamination with chemicals associated with the manufacturing of a controlled substance and where

  (A) activity involving the unauthorized manufacture of a controlled substance listed on schedule I or II in AS 11.71 or a precursor chemical or necessary chemical for the substances has occurred; or

  (B) there are kept, stored, or located any of the devices, equipment, things, or substances used for the unauthorized manufacture of a controlled substance listed on schedule I or II in AS 11.71

"Property" Definition

- ALASKA STAT. § 46.03.599.1 (2008): In AS 46.03.500 - 46.03.599,

  (2) "site" means an illegal drug manufacturing site.

Determination of Existence of Lab

- ALASKA STAT. § 46.03.500(a) (2008): (a) When a law enforcement officer or team of law enforcement officers, qualified under federal regulations to investigate and dismantle illegal drug manufacturing sites, determines that a site constitutes an illegal drug manufacturing site, the primary law enforcement agency that conducted the investigation shall notify the owner of the property, the occupants and users of the property, and the department that the determination has been made…

Appeal of Determination

- ALASKA STAT. § 46.03.500(a) (2008): (a) When a law enforcement officer or team of law enforcement officers, qualified under federal regulations to investigate and dismantle illegal drug manufacturing sites, determines that a site constitutes an illegal drug manufacturing site, the primary law enforcement agency that conducted the investigation shall notify the owner of the property, the occupants and users of the property, and the department that the determination has been made. The owner of the property may appeal the determination to the superior court for review of whether the determination was made

in compliance with this subsection. In the appeal, the burden of proving by a preponderance of the evidence that the determination was made in compliance with this subsection is on the primary law enforcement agency that conducted the investigation.

ARIZONA

"Lab" Definition

- ARIZ. REV. STAT. ANN. § 12-990(1) (2008): In this article, unless the context otherwise requires:

  1. "Clandestine drug laboratory" means real property on which methamphetamine, ecstasy or LSD is being manufactured or where a person is arrested for having on any real property chemicals or equipment used in manufacturing methamphetamine, ecstasy or LSD. In the case of a space rental mobile home or recreational vehicle park, clandestine drug laboratory means the mobile home or recreational vehicle in which methamphetamine, ecstasy or LSD is being manufactured or where a person is arrested for having in the mobile home or recreational vehicle chemicals or equipment used in manufacturing methamphetamine, ecstasy or LSD.

"Property" Definition

- ARIZ. REV. STAT. ANN. § 12-990(7) (2008): In this article, unless the context otherwise requires:

  7. "Real property" includes the area within a structure and the area that surrounds a structure and that is within the land boundary or property lines of any of the following:

  (a) Property that is used primarily for residential purposes.

  (b) Property that is governed by the Arizona residential landlord and tenant act as prescribed by title 33, chapter 10.

  (c) A mobile home as defined in §33-1409.

  (d) A recreational vehicle as defined in §33-2102.

Determination of Existence of Lab

- ARIZ. REV. STAT. ANN. § 12-1000(A) (2008): A. If a peace officer discovers a clandestine drug laboratory or arrests a person for having on any real property chemicals or equipment used in manufacturing methamphetamine, ecstasy or LSD or a derivative of methamphetamine, ecstasy or LSD, the peace officer:

METHAMPHETAMINE LAB DETERMINATION & APPEAL OF DETERMINATION

1. At the time of the discovery or arrest, shall deliver a copy of the notice of removal…

Appeal of Determination

- NOT FOUND

ARKANSAS

"Lab" Definition

- 32-00 ARK. CODE R. § 103 (Weil 2008): (C) "Clandestine Laboratory" means a covert or secret illicit operation that uses a combination of apparatus and chemicals to make controlled substances.

- Arkansas Department of Environmental Quality, *Clandestine Laboratory Remediation Cleanup Standards*, 44 (2008): Clandestine Drug Laboratory: Illegal drug laboratory.

"Property" Definition

- 32-00 ARK. CODE R. § 103 (Weil 2008): (R) "Property" means any real or personal property, or segregable part thereof, that is involved in or affected by the unauthorized manufacture, distribution, or storage of hazardous chemicals. This includes but is not limited to single-family residences, units of multiplexes, condominiums, apartment buildings, manufactured housing, any shop, booth, garden, or storage shed, and all contents of the items referenced in this subsection.

Determination of Existence of Lab

- ARK. CODE ANN. § 8-7-1403 (West 2007): (a) If a private property owner finds an abandoned laboratory for the manufacture of controlled substances on his or her property and there has been no active on-site law enforcement involvement, the property owner shall notify local law enforcement for proper removal of contaminated material.

  (b)(1) If a property owner finds or becomes aware of evidence of a laboratory for the manufacture of controlled substances on his or her property, the property owner shall have the property inspected in accordance with the guidelines established by the Arkansas Department of Environmental Quality under this subchapter by a contractor certified by the department under § 8-7-1402.

  (2) If the contractor selected by the property owner under subdivision (b)(1) of this section verifies that a laboratory for the manufacture of controlled substances has been on the property, the contractor shall notify the department and the department shall place the property on the contaminated properties list required under § 8-7-1404.

METHAMPHETAMINE LAB DETERMINATION & APPEAL OF DETERMINATION

- ARK. CODE ANN. § 8-7-1405(a) (West 2007): (a) If a law enforcement officer discovers a laboratory for the manufacture of controlled substances or arrests a person for having equipment used in manufacturing controlled substances on any real property, the law enforcement officer shall at the time of the discovery or arrest deliver a copy of the notice of removal required…

Appeal of Determination

- NOT FOUND

CALIFORNIA

"Lab" Definition

- CAL. HEALTH & SAFETY CODE § 25400.11(i), (l) (West 2008): For purposes of this chapter, the following definitions shall apply:

  (i) "Illegal methamphetamine manufacturing or storage site" or "site" means property where a person manufactures methamphetamine or stores a hazardous chemical used in connection with the manufacture of methamphetamine in violation of Section 11383.

  (l) "Methamphetamine laboratory activity" means the illegal manufacturing or storage of methamphetamine.

"Property" Definition

- CAL. HEALTH & SAFETY CODE § 25400.11(t) (West 2008): (t)(1) "Property" means a parcel of land, structure, or part of a structure where the manufacture of methamphetamine or storage of methamphetamine or a hazardous chemical that is prohibited by Section 11383, occurred.

  (2) "Property" also includes any of the following where the manufacture of methamphetamine or storage of methamphetamine or a hazardous chemical that is prohibited by Section 11383, occurred:

  (A) A mobilehome park.

  (B) A mobilehome or manufactured home located in a mobilehome park or special occupancy park, or a recreational vehicle sited in a mobilehome park or special occupancy park, including any accessory building or structure under the ownership or control of the owner of the manufactured home, mobilehome, or recreational vehicle sited in the mobilehome park or special occupancy park.

  (C) A special occupancy park.

(3) If a mobilehome or manufactured home is not located in a mobilehome park or special occupancy park, then paragraph (1) is applicable to that mobilehome or manufactured home.

Determination of Existence of Lab

- CAL. HEALTH & SAFETY CODE §25400.19 (West 2008): Within five working days after receiving a notification from a law enforcement agency of known or suspected contamination of a property by a methamphetamine laboratory activity, or upon notification from the property owner, the local health officer shall inspect the property, including the mobilehome, manufactured home, or recreational vehicle and the land on which it is located, pursuant to this section. In the case of a mobilehome, manufactured home, or recreational vehicle, that is property pursuant to paragraph (2) of subdivision (t) of Section 25400.11, the local health officer shall make the determination specified in subdivision (e) of Section 25400.20 regarding the cause of the contamination and responsibility for the remediation required pursuant to this chapter.

  (a) The property inspection shall include, but not be limited to, obtaining evidence of hazardous chemical use or storage and documentation of evidence of any chemical stains, cooking activity and release or spillage of hazardous chemicals used to manufacture methamphetamine.

  (b) In conducting an inspection pursuant to this section, the local health officer may request copies of any law enforcement reports, forensic chemist reports, and any hazardous waste manifests, to evaluate all of the following:

  (1) The length of time the property was used as an illegal methamphetamine manufacturing or storage site.

  (2) The extent of the property actually used and contaminated in the manufacture of methamphetamine or the storage of methamphetamine or a hazardous chemical.

  (3) The chemical process that was involved in the illegal methamphetamine manufacturing.

  (4) The chemicals that were removed from the scene.

  (5) The location of the illegal methamphetamine manufacturing or storage site in relation to the habitable areas of the property.

METHAMPHETAMINE LAB DETERMINATION & APPEAL OF DETERMINATION

- CAL. HEALTH & SAFETY CODE §25400.20 (West 2008): (a) Upon completing an inspection pursuant to Section 25400.19, the local health officer shall immediately determine whether the property is contaminated.

  (b) If the local health officer determines the property is contaminated, the local health officer shall take the actions specified in Section 25400.22.

  (c) If the local health officer determines that the property is not contaminated, within three working days after making that determination, the local health officer shall remove all notices posted pursuant to Section 25400.18 and prepare a written documentation of this determination, which shall include all of the following:

  (1) Findings and conclusions.

  (2) Name of the property owner, and, if applicable, mailing and street address or space number of the property or vehicle identification number of the recreational vehicle.

  (3) Parcel identification number, if applicable.

  (d) Within 10 working days after preparing a written documentation of the determination made pursuant to subdivision (c) that the property is not contaminated, the local health officer shall send a copy of the documentation to the property owner, and to the local agency responsible for enforcement of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13).

  (e) In the case of a property specified in paragraph (2) of subdivision (t) of Section 25400.11, the local health officer shall, upon completing the inspection pursuant to Section 25400.19, determine the responsibility for the remediation required pursuant to this chapter in accordance with the following:

  (1) Except as provided in paragraph (3), if the land on which the mobilehome, manufactured home, or recreational vehicle is located is contaminated, the owner of the mobilehome park or special occupancy park shall be held responsible for compliance with this chapter.

  (2) Except as provided in paragraph (3), if the mobilehome, manufactured home, or recreational vehicle is contaminated, the registered owner of the mobilehome, manufactured home, or recreational vehicle shall be held responsible for compliance with this chapter.

(3) If both the land on which the mobilehome, manufactured home, or recreation vehicle is located is contaminated and the mobilehome, manufactured home, or recreational vehicle itself is contaminated, the local health officer shall determine, based on the local health officer's findings and determinations, whether the owner of the mobilehome park or special occupancy park or the registered owner of the mobilehome, manufactured home, or recreational vehicle, or both, shall be held responsible for compliance with this chapter. The local health officer shall submit a notice to each owner determined to be responsible for remediation, as to the owner's individual responsibility pursuant to this chapter.

(4) If the local health officer makes the determination specified in paragraph (2) or (3), the mobilehome park or special occupancy park manager and the owner of the land on which the mobilehome, manufactured home, or recreational vehicle is located shall also receive a copy of any notice served on the registered owner, lessee, renter, or occupant of the mobilehome, manufactured home, or recreational vehicle.

Appeal of Determination

- NOT FOUND

COLORADO

"Lab" Definition

- COLO. REV. STAT. ANN. § 25-18.5-101(2) (West 2008): As used in this article, unless the context otherwise requires:

  (2) "Drug laboratory" means the areas where controlled substances, as defined by section 18-18-102, C.R.S., have been manufactured, processed, cooked, disposed of, or stored and all proximate areas that are likely to be contaminated as a result of such manufacturing, processing, cooking, disposing, or storing.

"Property" Definition

- COLO. REV. STAT. ANN. § 25-18.5-101(3) (West 2008): As used in this article, unless the context otherwise requires:

  (3) "Property" means anything that may be the subject of ownership, including but not limited to, land, buildings, structures, and vehicles.

- 6 COLO. CODE REGS. § 1014-3-3.0 (2008): "Property" means anything that may be the subject of ownership or possession, including but not limited to, land, buildings, structures, vehicles and personal belongings.

METHAMPHETAMINE LAB DETERMINATION & APPEAL OF DETERMINATION

Determination of Existence of Lab

- COLO. REV. STAT. ANN. § 25-18.5-103 (West 2008): (1)(a) Upon notification from a peace officer that chemicals, equipment, or supplies indicative of an illegal drug laboratory are located on a property, or when an illegal drug laboratory used to manufacture methamphetamine is otherwise discovered and the property owner has received notice, the owner of any contaminated property shall meet the cleanup standards for property established by the board in section 25-18.5-102…

- COLO. REV. STAT. ANN. § 38-35.7-103(1)-(2) (West 2008): (1) A buyer of residential real property has the right to test the property for the purpose of determining whether the property has ever been used as a methamphetamine laboratory.

  (2)(a) Tests conducted pursuant to this section shall be performed by a certified industrial hygienist or industrial hygienist, as those terms are defined in section 24-30-1042, C.R.S. If the buyer's test results indicate that the property has been used as a methamphetamine laboratory but has not been remediated to meet the standards established by rules of the state board of health promulgated pursuant to section 25-18.5-102, C.R.S., the buyer shall promptly give written notice to the seller of the results of the test, and the buyer may terminate the contract.

  (b) The seller shall have thirty days after receipt of the notice to conduct a second independent test. If the seller's test results indicate that the property has been used as a methamphetamine laboratory but has not been remediated to meet the standards established by rules of the state board of health promulgated pursuant to section 25-18.5-102, C.R.S., then the second independent hygienist shall so notify the seller.

  (c) If the seller receives the notice referred to in paragraph (b) of this subsection (2) or if the seller receives the notice referred to in paragraph (a) of this subsection (2) and does not elect to have the property retested pursuant to paragraph (b) of this subsection (2), then an illegal drug laboratory used to manufacture methamphetamine shall be deemed to have been discovered and the owner shall be deemed to have received notice pursuant to section 25-18.5-103(1)(a), C.R.S. Nothing in this section shall prohibit a buyer from purchasing the property and assuming liability pursuant to section 25-18.5-103, C.R.S., if, on the date of closing, the buyer provides notice to the department of public health and environment of the purchase and assumption of liability and if the remediation required by section 25-18.5-103, C.R.S., is completed within ninety days after the date of closing.

Appeal of Determination

- NOT FOUND

METHAMPHETAMINE LAB DETERMINATION & APPEAL OF DETERMINATION

CONNECTICUT
- NOT FOUND

DELAWARE
- NOT FOUND

FLORIDA
- NOT FOUND

GEORGIA
- NOT FOUND

HAWAII
"Lab" Definition
- HAW. CODE R. § 11-452-3 (Weil 2007): As used in this chapter, unless the context otherwise requires:

  "Methamphetamine manufacturing site" means any site, structure, vehicle or container where methamphetamine is manufactured, purified, synthesized, reconstituted or converted."

"Property" Definition
- HAW. CODE R. § 11-452-3 (Weil 2007): As used in this chapter, unless the context otherwise requires:

  "Site" means:

  (1) Any real property, location, structure, vehicle or container in or on which methamphetamine, precursor chemicals or intermediate products are discovered or manufactured; and

  (2) The delineated extent of contamination and all suitable areas in proximity to the contamination necessitating a response action.

Determination of Existence of Lab
- HAW. CODE R. § 11-452-26 (Weil 2007): (a) The chief law enforcement officer shall make a determination as to the existence of a methamphetamine manufacturing site.

(b) Once the chief law enforcement officer has made a determination, the chief law enforcement officer shall contact the hazard evaluation and emergency response office and submit a report…

Appeal of Determination

- NOT FOUND

IDAHO

"Lab" Definition

- IDAHO CODE ANN. § 6-2603(1) (2008): As used in this chapter, unless the context otherwise requires:

  (1) "Clandestine drug laboratory" means the areas where controlled substances or their immediate precursors, as those terms are defined in section 37-2701, Idaho Code, have been, or were attempted to be, manufactured, processed, cooked, disposed of or stored, and all proximate areas that are likely to be contaminated as a result of such manufacturing, processing, cooking, disposing or storing.

- IDAHO ADMIN. CODE r. § 16.02.24.010.04 (2008): For the purpose of these rules, the following terms are used as defined below:

  04. Clandestine Drug Laboratory. The area(s) where controlled substances or their immediate precursors, as those terms are defined in Section 37-2701, Idaho Code, have been, or were attempted to be, manufactured, processed, cooked, disposed of , or stored, and all proximate areas that are likely to be contaminated as a result of such manufacturing, processing, cooking, disposing or storing.

"Property" Definition

- IDAHO CODE ANN. §§ 6-2603(4) (2008): As used in this chapter, unless the context otherwise requires:

  (4) "Residential property" means any building or structure to be primarily occupied by people, either as a dwelling or as a business, including a storage facility, mobile home, manufactured home or recreational vehicle that may be sold, leased or rented for any length of time. "Residential property" does not include any water system, sewer system, or land or water outside of a building or structure.

Determination of Existence of Lab

- IDAHO ADMIN. CODE r. § 16.02.24.003.02 (2008): 02. Appeal of Property Listing. The certification by the reporting law enforcement agency that it is more likely than not that

the property has been contaminated through use as a clandestine drug laboratory is prima facie evidence for listing the property on the Clandestine Drug Laboratory Site Property List.

- IDAHO ADMIN. CODE r. § 16.02.24.120.03 (2008): 03. Voluntary Compliance. When a property owner voluntarily reports his property as a clandestine drug laboratory, the property will be placed on the Clandestine Drug Laboratory Site Property List and will be delisted when the requirements of these rules are met. This action will afford the property owner immunity from civil actions as provided in Section 6-2608, Idaho Code.

Appeal of Determination

- IDAHO ADMIN. CODE r. § 16.02.24.003.02 (2008): 02. Appeal of Property Listing. The certification by the reporting law enforcement agency that it is more likely than not that the property has been contaminated through use as a clandestine drug laboratory is prima facia evidence for listing the property on the Clandestine Drug Laboratory Site Property List.

  (a) Property Owner's Right to Appeal. The property owner listed on the Clandestine Drug Laboratory Site Property List may appeal the listing by filing a written request for hearing with the Administrative Procedures Section, 10th Floor, 450 West State Street, P.O. Box 83720, Boise, ID 83720-0036, within twenty-eight (28) days of the mailing of the notification by the law enforcement agency.

  (b) Burden of Proof. The burden of proof is on the property owner to show, by a preponderance of evidence, that the property has not been contaminated through use as a clandestine drug laboratory.

ILLINOIS

- NOT FOUND

INDIANA

"Lab" Definition

- IND. CODE ANN. § 5-2-15-2 (West 2008): As used in this chapter, "methamphetamine laboratory" means a location or facility that:

  (1) is being used;

  (2) was intended to be used; or

  (3) has been used;

to produce methamphetamine.

"Property" Definition

- IND. CODE ANN. § 5-2-6-19(b) (West 2008): As used in this section, "property" refers to a structure or part of a structure that is used as a home, residence, or sleeping unit.

- 318 IND. ADMIN. CODE 1-3-1 (2007): (a) This rule applies to the owner of any of the following properties that meet the definition of a contaminated property:

  (1) Single or multiple family residences.

  (2) Mobile homes.

  (3) Hotels or motels.

  (4) Businesses.

  (5) Vehicles.

  (6) Watercraft.

  (7) Rental storage units.

  (8) Outbuildings that are readily accessible to children.

  (b) This rule does not apply to any of the following:

  (1) Property that is not described in subsection (a).

  (2) Waste collection containers.

Determination of Existence of Lab

- IND. CODE ANN. § 5-2-15-3 (West 2008): A law enforcement agency that terminates the operation of a methamphetamine laboratory shall report the existence and location of the methamphetamine laboratory to:

  (1) the state police department;

(2) the local fire department that serves the area in which the methamphetamine laboratory is located;

(3) the county health department or, if applicable, multiple county health department of the county in which the methamphetamine laboratory is located; and

(4) the Indiana criminal justice institute;

on a form and in the manner prescribed by guidelines adopted by the superintendent of the state police department under IC 10-11-2-31.

Appeal of Determination

- NOT FOUND

IOWA

- NOT FOUND

KANSAS

- NOT FOUND

KENTUCKY

"Lab" Definition

- KY. REV. STAT. ANN. § 224.01-410(2)(a) (West 2007) (as amended by HB 765): (2) As used in this section, the following shall apply:

  (a) "Clandestine methamphetamine lab" means any inhabitable property used for the manufacture of methamphetamine as defined by KRS 218A.1431;

"Property" Definition

- KY. REV. STAT. ANN. § 224.01-410(2)(d) (West 2007) (as amended by HB 765): (2) As used in this section, the following shall apply:

  (d) "inhabitable property" means any building or structure and any related cartilage, water, water system, or sewer system used as a clandestine methamphetamine drug lab that is intended to be primarily occupied by people, including a mobile home, that may be sold, leased, or rented for any length of time. "Inhabitable property" shall not include a hotel as defined in KRS 219.011.

Determination of Existence of Lab

METHAMPHETAMINE LAB DETERMINATION & APPEAL OF DETERMINATION

- KY. REV. STAT. ANN. § 224.01-410(4) (West 2007) (as amended by HB 765): (4) The Department of Kentucky State Police shall promulgate administrative regulations for establishing assessment procedures for determining if an inhabitable property is a contaminated property.

- KY. REV. STAT. ANN. § 224.01-410(9) (West 2007) (as amended by HB 765): (9) When a state or local law enforcement agency investigates an inhabitable property that it has reason to believe has been used as a clandestine methamphetamine drug lab, the state or local law enforcement agency shall, at the request of the state or local health department under its respective authority pursuant to KRS Chapter 211 or 212, post a methamphetamine contamination notice on each exterior door of the inhabitable property, except that in the case of a multifamily housing unit it shall post the notice on each entrance door to the individual unit. The Department for Public Health shall promulgate administrative regulations establishing the notice requirements and the process for removing the notice from inhabitable properties. Any homeowner listed on the deed of the dwelling may request an administrative hearing pursuant to KRS Chapter 13B to determine whether the methamphetamine contamination notice is proper by filing a request for appeal with the Department for Public Health within thirty (30) days of the methamphetamine contamination notice having been posted on the property. The responding state or local law enforcement agency shall, within three (3) business days of when the notice is posted, report it by fax or e-mail to the local health department.

Appeal of Determination

- KY. REV. STAT. ANN. § 224.01-410(9) (West 2007) (as amended by HB 765): (9) When a state or local law enforcement agency investigates an inhabitable property that it has reason to believe has been used as a clandestine methamphetamine drug lab, the state or local law enforcement agency shall, at the request of the state or local health department under its respective authority pursuant to KRS Chapter 211 or 212, post a methamphetamine contamination notice on each exterior door of the inhabitable property, except that in the case of a multifamily housing unit it shall post the notice on each entrance door to the individual unit. The Department for Public Health shall promulgate administrative regulations establishing the notice requirements and the process for removing the notice from inhabitable properties. Any homeowner listed on the deed of the dwelling may request an administrative hearing pursuant to KRS Chapter 13B to determine whether the methamphetamine contamination notice is proper by filing a request for appeal with the Department for Public Health within thirty (30) days of the methamphetamine contamination notice having been posted on the property. The responding state or local law enforcement agency shall, within three (3) business days of when the notice is posted, report it by fax or e-mail to the local health department.

METHAMPHETAMINE LAB DETERMINATION & APPEAL OF DETERMINATION

LOUISIANA

"Lab" Definition

- NOT FOUND

"Property" Definition

- NOT FOUND

Determination of Existence of Lab

- LA. REV. STAT. ANN. §9:3198.1(A) (2008) (as amended by 2008 S.B. 801): A. Whenever a state or local law enforcement agency becomes aware that residential real property has been contaminated by its use as a clandestine methamphetamine drug lab, the agency shall report the contamination to the Department of Environmental Quality, hereinafter referred to as the "department," and to the local sheriff's office.

Appeal of Determination

- NOT FOUND

MAINE

- NOT FOUND

MARYLAND

- NOT FOUND

MASSACHUSETTS

- NOT FOUND

MICHIGAN

"Lab" Definition

- MICH. COMP. LAWS ANN. § 333.26371(b) (West 2008): As used in this act:

  (b) "Methamphetamine laboratory" means the site where the illegal manufacture of methamphetamine has taken place, and includes all equipment and supplies used at that site for that purpose.

"Property" Definition

- MICH. COMP. LAWS ANN. § 333.12103(3) (West 2008): …As used in this subsection, "dwelling" means any house, building, structure, tent, shelter, trailer or vehicle, or portion thereof, except railroad cars on tracks or rights-of-way, which is occupied in whole or in part as the home, residence, living, or sleeping place of 1 or more human beings, either permanently or transiently.

Determination of Existence of Lab

- MICH. COMP. LAWS ANN. § 333.12103(3) (West 2008): (3) Within 48 hours of discovering an illegal drug manufacturing site, a state or local law enforcement agency shall notify the local health department and the department of community health regarding the potential contamination of any property or dwelling that is or has been the site of illegal drug manufacturing. The state or local law enforcement agency shall post a written warning on the premises stating that potential contamination exists and may constitute a hazard to the health or safety of those who may occupy the premises. Within 14 days after receipt of the notification under this subsection or as soon thereafter as practically possible, the department of community health, in cooperation with the local health department, shall review the information received from the state or local law enforcement agency, emergency first responders, or hazardous materials team that was called to the site and make a determination regarding whether the premises are likely to be contaminated and whether that contamination may constitute a hazard to the health or safety of those who may occupy the premises. The fact that the property or a dwelling has been used as a site for illegal drug manufacturing shall be treated by the department of community health as prima facie evidence of likely contamination that may constitute a hazard to the health or safety of those who may occupy those premises.

- MICH. COMP. LAWS ANN. § 125.485a(1)-(2) (West 2008): Within 48 hours of discovering an illegal drug manufacturing site, a state or local law enforcement agency shall notify the local health department and the department of community health regarding the potential contamination of any property or dwelling that is or has been the site of illegal drug manufacturing. The state or local law enforcement agency shall post a written warning on the premises stating that potential contamination exists and may constitute a hazard to the health or safety of those who may occupy the premises.

  (2) Within 14 days after receipt of the notification under this subsection or as soon thereafter as practically possible, the department of community health, in cooperation with the local health department, shall review the information received from the state or local law enforcement agency, emergency first responders, or hazardous materials team that was called to the site and make a determination regarding whether the premises are likely to be contaminated and whether that contamination may constitute a hazard to the health or safety of those who may occupy the premises. The fact that the property or a dwelling has been used as a site for illegal drug manufacturing shall be treated by the department of community health as prima facie evidence of likely contamination that may constitute a hazard to the health or safety of those who may occupy those premises.

Appeal of Determination

- NOT FOUND

MINNESOTA

"Lab" Definition

- MINN. STAT. ANN. § 152.0275, Subd. 1(a)(1) (West 2008): (a) As used in this subdivision:

  (1) "clandestine lab site" means any structure or conveyance or outdoor location occupied or affected by conditions or chemicals typically associated with the manufacturing of methamphetamine.

"Property" Definition

- MINN. STAT. ANN. § 152.0275, Subd. 2(2) (West 2008): (a) As used in this subdivision:

  (2) "property" means publicly or privately owned real property including buildings and other structures, motor vehicles as defined in section 609.487, subdivision 2a, public waters, and public rights-of-way.

Determination of Existence of Lab

- MINN. STAT. ANN. § 152.0275, Subd. 2(b) (West 2008): (b) A peace officer who arrests a person at a clandestine lab site shall notify the appropriate county or local health department, state duty officer, and child protective services of the arrest and the location of the site.

Appeal of Determination

- NOT FOUND

MISSISSIPPI

- NOT FOUND

MISSOURI

- NOT FOUND

MONTANA

"Lab" Definition

- NOT FOUND

"Property" Definition

- MONT. CODE ANN. §§ 75-10-1302(2) (2007): Unless the context requires otherwise, in this part, the following definitions apply:

(2) (a) "Inhabitable property" means any building or structure used as a clandestine methamphetamine drug lab that is intended to be primarily occupied by people, either as a dwelling or a business, including a storage facility, mobile home, or recreational vehicle, that may be sold, leased, or rented for any length of time.

(b) The term does not mean any water system, sewer system, land, or water outside of a building or structure described in subsection (2)(a).

Determination of Existence of Lab

- MONT. CODE ANN. § 75-10-1306 (2007): (1) Whenever a state or local law enforcement agency becomes aware that an inhabitable property has been contaminated by its use as a clandestine methamphetamine drug lab, the agency shall report the contamination to the department and to the local health officer.

Appeal of Determination

- NOT FOUND

NEBRASKA

"Lab" Definition

- NEB REV. STAT. § 71-2432(1) (2007): For purposes of sections 71-2432 to 71-2435:

(1) Clandestine drug lab means any area where glassware, heating devices, or other equipment or precursors, solvents, or related articles or reagents are used to unlawfully manufacture methamphetamine.

"Property" Definition

- NEB REV. STAT. § 71-2432 (2007): For purposes of sections 71-2432 to 71.2435:

(2) Contaminated property means an enclosed area of any property or portion thereof intended for human habitation or use which has been contaminated by chemicals, chemical residue, methamphetamine, methamphetamine residue, or other substances from a clandestine drug lab.

Determination of Lab Existence

- NEB REV. STAT. § 71-2433 (2007): A property owner with knowledge of a clandestine drug lab on his or her property shall report such knowledge and location as soon as practicable to the local law enforcement agency or to the Nebraska State Patrol. A law enforcement agency that discovers a clandestine drug lab in the State of Nebraska shall

report the location of such lab to the Nebraska State Patrol within thirty days after making such discovery…

Appeal of Determination

- NOT FOUND

NEVADA

- NOT FOUND

NEW HAMPSHIRE

- NOT FOUND

NEW JERSEY

- NOT FOUND

NEW MEXICO

"Lab" Definition

- N.M. CODE R. § 20.4.5.7.C (Weil 2008): Unless otherwise defined in this part, the words and phrases used in this part have the same meanings as in Sections 74-4-1 through 74-4-14 NMSA 1978 (as amended), and 20.4.1 NMAC. As used in this part.

  C. 'Clandestine drug laboratory' means property on which any controlled substance is being unlawfully manufactured or on which there is an attempt to unlawfully manufacture, or where a person is arrested for having on any property any chemicals or equipment used in manufacturing any controlled substance. In the case of a space rental mobile home or recreational vehicle park, clandestine drug laboratory means the mobile home or recreational vehicle in which any controlled substance is being manufactured or where a person is arrested for having in the mobile home or recreational vehicle any chemicals or equipment used in manufacturing any controlled substance. Clandestine drug laboratory shall include any place or area where chemicals or other waste materials used in clandestine drug laboratories have been located.

"Property" Definition

- N.M. CODE R. § 20.4.5.7.I (Weil 2008): Unless otherwise defined in this part, the words and phrases used in this part have the same meanings as in Sections 74-4-1 through 74-4-14 NMSA 1978 (as amended), and 20.4.1 NMAC. As used in this part.

  I. 'Property' means real or personal property, which includes the following:

(1) the area within a structure and the area that surrounds a structure and that is within the land boundary or property lines of any property that can be used for residential purposes or is occupied by people for any length of time for any purpose, and

(2) a vehicle as defined in Section 66-1-4.19 NMSA 1978 (as amended).

Determination of Existence of Lab

- N.M. CODE R. § 20.4.5.9 (Weil 2008): Upon identification by a law enforcement agency of a clandestine drug laboratory where chemicals and equipment were removed or residual contamination was observed, the property is presumed to constitute a site of a hazardous substance incident and a public nuisance until such time as the remediation required by this part is completed.

Appeal of Determination

- NOT FOUND

NEW YORK

- NOT FOUND

NORTH CAROLINA

"Lab" Definition

- NOT FOUND

"Property" Definition

- N.C. GEN. STAT. § 130A-334(6), (10) (West 2008): (6) "residence" means a private home, dwelling unit in a multiple family structure, hotel, motel, summer camp, labor work camp, manufactured home, institution or any other place where people reside.

  (10) "place of business" means a store, warehouse, manufacturing establishment, place of amusement or recreation, service station, office building or any other place where people work.

Determination of Existence of Lab

- 10A N.C. ADMIN. CODE 41D.0101(d) (West 2008): (d) When law enforcement officials have posted a notice on property signifying that the property had been used as a clandestine methamphetamine laboratory, the law enforcement officials shall immediately notify the local health department of the presence of the laboratory. The local health department shall immediately inform the property owner of record or his agent that the property has been used as a methamphetamine laboratory, inform him that the property must be vacated, and inform him of the requirement placed upon a

responsible party to remediate the property in accordance with these rules prior to the property being reoccupied.

Appeal of Determination

- NOT FOUND

NORTH DAKOTA

- NOT FOUND

OHIO

- NOT FOUND

OKLAHOMA

- NOT FOUND

OREGON

"Lab" Definition

- OR. REV. STAT. ANN. § 453.858 (2007): As used in ORS 453.855 to 453.912:

(2) "Illegal drug manufacturing site" means any property on which there is a reasonably clear possibility of contamination with chemicals associated with the manufacturing of controlled substances and:

(a) Where activity involving the unauthorized manufacture of a controlled substance listed on Schedules I and II or any precursor chemical for such substances occurs; or

(b) Wherein are kept, stored or located any of the devices, equipment, things or substances used for the unauthorized manufacture of a controlled substance listed on Schedules I and II.

"Property" Definition

- OR. REV. STAT. ANN. § 453.858(3) (2007): As used in ORS 453.855 to 453.912:

(3) "Property" means any:

(a) Real property, improvements on real property or portions of the improvements;

(b) Boat, trailer, motor vehicle or manufactured dwelling; or

(c) Contents of the items listed in paragraph (a) or (b) of this subsection.

METHAMPHETAMINE LAB DETERMINATION & APPEAL OF DETERMINATION

Determination of Existence of Lab

- OR. REV. STAT. ANN. § 453.876(1), (4) (2007): (1) The Director of Human Services or a designee thereof, the State Fire Marshal or a designee thereof or any law enforcement agency may determine that property is not fit for use pursuant to ORS 105.555, 431.175 and 453.855 to 453.912 and applicable rules adopted by the Department of Human Services and may make that determination on site. The determination is effective immediately and renders the property not fit for use…

  (4) If a determination that property is not fit for use is made under subsection (1) of this section, a local government or the state may provide notice that the real property has been determined to be an illegal drug manufacturing site…

Appeal of Determination

- OR. REV. STAT. ANN. § 453.876 (2007): (1) The Director of Human Services or a designee thereof, the State Fire Marshal or a designee thereof or any law enforcement agency may determine that property is not fit for use pursuant to ORS 105.555, 431.175 and 453.855 to 453.912 and applicable rules adopted by the Department of Human Services and may make that determination on site. The determination is effective immediately and renders the property not fit for use.

  (2) The owner may appeal the determination, to the agency that made the determination, within 30 working days after the determination, pursuant to rules of the agency, or to circuit court.

  (3) The appeal to the agency is not a contested case under ORS chapter 183. The question on appeal is limited to whether the site is an illegal drug manufacturing site.

  (4) If a determination that property is not fit for use is made under subsection (1) of this section, a local government or the state may provide notice that the real property has been determined to be an illegal drug manufacturing site and not fit for use to:

  (a) A person in each residence located within 300 feet of the real property if the real property is located within an urban growth boundary; or

  (b) A person in each residence located within one quarter mile of the real property if the real property is not located within an urban growth boundary.

  (5) The notice described in subsection (4) of this section shall be in writing and shall include:

(a) The address of the real property that is determined to be not fit for use;

(b) A statement that the determination is subject to appeal and that the real property may be determined to be fit for use if the appeal is successful or if the real property is certified as decontaminated;

(c) The telephone number of the office of the Department of Human Services that is responsible for overseeing the decontamination of illegal drug manufacturing sites; and

(d) The website for the Department of Human Services office responsible for overseeing the decontamination of illegal drug manufacturing sites that contains information on the dangers associated with real property that has been used as an illegal drug manufacturing site.

- OR. ADMIN. R. § 333-040-0050(3) & (4) (2008): (3) An agency determining property unfit for use shall proceed as follows:

(a) Notify the owner or agent of the affected property by personal service or by certified mail sent within 3 working days of the determination. Proof of such mailing shall be considered service. Proof of actual delivery is not required. Where the owner of record or the title or certificate holder is not listed in public records or cannot be reasonably notified, service of notice on the registered agent or other designated agent is sufficient;

(b) Mail a copy of the notice to the owner/agent as required in subsection (3)(a) of this rule to the Division. The Division shall notify the State Building Codes Division, the Department of Motor Vehicles, the State Marine Board and/or other affected agencies.

(c) Post a standard warning notice provided by the Division at all entrances to the contaminated property at the time of the determination. Such notice(s) shall be displayed continuously until a Certificate of Fitness has been issued by the Division.

(4) The notice required in subsection (3)(a) of this rule shall include all of the specific information in the sample notice available from the Division, but need not be identical in form. <u>This notice shall also include a statement that the owner may obtain a hearing by making a written request to the agency making the determination within 30 days</u>.

PENNSYLVANIA

- NOT FOUND

RHODE ISLAND

- NOT FOUND

SOUTH CAROLINA
- NOT FOUND

SOUTH DAKOTA
- NOT FOUND

TENNESSEE

"Lab" Definition
- NOT FOUND

"Property" Definition
- TENN. CODE ANN. § 68-212-502 (West 2008): Such property may include, but is not limited to, leased or rented property such as a hotel or motel room, rented home or apartment, or any residential property.

Determination of Existence of Lab
- TENN. CODE ANN. § 68-212-503(a)-(b) (West 2008): (a) The purpose of the quarantine provided for in this section is to prevent exposure of any person to the hazards associated with methamphetamine and the chemicals associated with the manufacture of methamphetamine.

  (b) Any property, or any structure or room in any structure on any property wherein the manufacture of a controlled substance listed in § 39-17-408(d)(2) is occurring or has occurred, may be quarantined by the local law enforcement agency where such property is located. The law enforcement agency which quarantines the property shall be responsible for posting signs indicating that the property has been quarantined and, to the extent they can be reasonably identified, for notifying all parties having any right, title or interest in the quarantined property, including any lienholders.

Appeal of Determination
- TENN. CODE ANN. § 68-212-503(c) (West 2008): (c)(1) Any person who has an interest in property quarantined pursuant to this section may file a petition in the general sessions, criminal, circuit or chancery court of the county in which the property is located. Such a petition shall be for the purpose of requesting that the court order the quarantine of such property be lifted for one (1) of the following reasons:

  (A) That the property was wrongfully quarantined; or

(B) That the property has been properly cleaned, all hazardous materials removed and that it is now safe for human use but the law enforcement agency who imposed the quarantine refuses to lift it.

(2) The court shall take such proof as it deems necessary to rule upon a petition filed pursuant to this section and, after hearing such proof, may grant the petition and lift the quarantine or deny the petition and keep the quarantine in place.

TEXAS

- NOT FOUND

UTAH

"Lab" Definition

- NOT FOUND

"Property" Definition

- UTAH CODE ANN. §§ 19-6-902(9) (West 2008): (9) "Property":

  (a) means any real property, site, structure, part of a structure, or the grounds surrounding a structure; and

  (b) includes single-family residences, outbuildings, garages, units of multiplexes, condominiums, apartment buildings, warehouses, hotels, motels, boats, motor vehicles, trailers, manufactured housing, shops, or booths.

- UTAH ADMIN. CODE r. R392-600-2(38) (2008): (38) "Property" means: (a) any property, site, structure, part of a structure, or the grounds, surrounding a structure; and (b) includes single-family residences, outbuildings, garages, units of multiplexes, condominiums, apartment buildings, warehouses, hotels, motels, boats, motor vehicles, trailers, manufactured housing, shops, or booths.

Determination of Existence of Lab

- UTAH CODE ANN. § 19-6-903 (West 2008): (1)(a) When any state or local law enforcement agency in the course of its official duties observes any paraphernalia of a clandestine drug laboratory operation, including chemicals or equipment used in the manufacture of unlawful drugs, the agency shall report the location where the items were observed to the local health department.

(b)(i) The law enforcement officer shall make the report under Subsection (1)(a) at the location where the observation occurred, if making the report at that time will not compromise an ongoing investigation.

(ii) If the report cannot be made at the location, the report shall be made as soon afterward as is practical.

(c) The report under Subsection (1)(a) shall include:

(i) the date of the observation;

(ii) the name of the reporting agency and the case number of the case that involves the location of the observation;

(iii) the contact information of the officer involved, including name and telephone number;

(iv) the address of the location and descriptions of the property that may be contaminated; and

(v) a brief description of the evidence at the location that led to the belief the property at the location may be contaminated.

(2) The law enforcement agency shall forward to the local health department copies of the reports made under Subsection (1).

(3)(a) Upon receipt of a complaint or a report from law enforcement regarding possibly contaminated property, the local health officer or his designee shall determine if reasonable evidence exists that the property is contaminated.

Appeal of Determination

- NOT FOUND

VERMONT

- NOT FOUND

VIRGINIA

- NOT FOUND

WASHINGTON

METHAMPHETAMINE LAB DETERMINATION & APPEAL OF DETERMINATION

"Lab" Definition

- WASH. ADMIN. CODE §§ 246-205-010 (2008): For the purposes of this chapter, the following words and phrases shall have the following meanings unless the content clearly indicates otherwise:

  'Illegal drug manufacturing or storage site' means any property where a person illegally manufactures or stores a controlled substance or a law enforcement agency or the property owner believes a person illegally manufactured or stored a controlled substance.

"Property" Definition

- WASH. REV. CODE ANN. § 64.44.010(6) (West 2008): The words and phrases defined in this section shall have the following meanings when used in this chapter unless the context clearly indicates otherwise.

  (6) "Property" means any real or personal property, or segregable part thereof, that is involved in or affected by the unauthorized manufacture, distribution, or storage of hazardous chemicals. This includes but is not limited to single-family residences, units of multiplexes, condominiums, apartment buildings, boats, motor vehicles, trailers, manufactured housing, any shop, booth, garden, or storage shed, and all contents of the items referenced in this subsection.

- WASH. ADMIN. CODE §§ 246-205-010 (2008): For the purposes of this chapter, the following words and phrases shall have the following meanings unless the content clearly indicates otherwise:

  'Property' means any site, lot, parcel of land, structure, or part of a structure involved in the illegal manufacture of a drug or storage of a hazardous chemical including, but not limited to:

  Single-family residences;

  Units or multiplexes;

  Condominiums;

  Apartment buildings;

  Motels and hotels;

  Boats;

Motor vehicles;

Trailers;

Manufactured housing;

Any ship, booth, or garden; or

Any site, lot, parcel of land, structure, or part of a structure that may be contaminated by previous use.

Determination of Existence of Lab

- WASH. REV. CODE ANN. § 64.44.020 (West 2008): Whenever a law enforcement agency becomes aware that property has been contaminated by hazardous chemicals, that agency shall report the contamination to the local health officer. The local health officer shall cause a posting of a written warning on the premises within one working day of notification of the contamination and shall inspect the property within fourteen days after receiving the notice of contamination…

- WASH. REV. CODE ANN. § 64.44.030 (West 2008): (1) If after the inspection of the property, the local health officer finds that it is contaminated, then the local health officer shall issue an order declaring the property unfit and prohibiting its use.

- WASH. ADMIN. CODE § 246-205-510(3) (2008): As required by 64.44 RCW, the local health officer's responsibilities shall include, but not be limited to:

  (3) Determining contamination.

- WASH. ADMIN. CODE § 246-205-530 (2008): Within fourteen days after a law enforcement agency or property owner notifies the local health officer of potential property contamination, the local health officer shall inspect the property.

  (1) To enable the local health officer to determine contamination, the property inspection shall include, but not be limited to, an acquisition of data such as evidence of:

  (a) Hazardous chemical use or storage on site;

  (b) Chemical stains;

(c) Release or spillage of hazardous chemicals on the property; or

(d) Glassware or other paraphernalia associated with the manufacture of illegal drugs on site.

(2) As part of the property's inspection, the local health officer may request copies of any law enforcement reports, forensic chemist reports, and any department of ecology hazardous material transportation manifests needed to evaluate:

(a) The length of time the property was used as an illegal drug manufacturing or storage site;

(b) The size of the site actually used for the manufacture or storage of illegal drugs;

(c) What chemical process was involved in the manufacture of illegal drugs;

(d) What chemicals were removed from the scene; and

(e) The location of the illegal drug manufacturing or storage site in relation to the habitable areas of the property.

(3) The local health officer may coordinate the property's inspection with other appropriate agencies. At the request of the local health officer, the Washington state department of ecology may conduct an environmental assessment and may sample the property's ground water, surface water, septic tank water, soil, and other media as necessary to enable the local health officer to evaluate the long-term public health threats.

- WASH. ADMIN. CODE § 246-205-540 (2008): (1) The local health officer shall make a determination of contamination when the inspection reveals the property is contaminated.

Appeal of Determination

- WASH. REV. CODE ANN. § 64.44.030 (West 2008): (1) If after the inspection of the property, the local health officer finds that it is contaminated, then the local health officer shall issue an order declaring the property unfit and prohibiting its use. The local health officer shall cause the order to be served either personally or by certified mail, with return receipt requested, upon all occupants and persons having any interest therein as shown upon the records of the auditor's office of the county in which such property is located. The local health officer shall also cause the order to be posted in a conspicuous place on the property. If the whereabouts of such persons is unknown and the same cannot be ascertained by the local health officer in the exercise of reasonable diligence, and the health officer makes an affidavit to that effect, then the serving of the order upon such

persons may be made either by personal service or by mailing a copy of the order by certified mail, postage prepaid, return receipt requested, to each person at the address appearing on the last equalized tax assessment roll of the county where the property is located or at the address known to the county assessor, and the order shall be posted conspicuously at the residence. A copy of the order shall also be mailed, addressed to each person or party having a recorded right, title, estate, lien, or interest in the property. The order shall contain a notice that a hearing before the local health board or officer shall be held upon the request of a person required to be notified of the order under this section. The request for a hearing must be made within ten days of serving the order. The hearing shall then be held within not less than twenty days nor more than thirty days after the serving of the order. The officer shall prohibit use as long as the property is found to be contaminated. A copy of the order shall also be filed with the auditor of the county in which the property is located, where the order pertains to real property, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. In any hearing concerning whether property is fit for use, the property owner has the burden of showing that the property is decontaminated or fit for use. The owner or any person having an interest in the property may file an appeal on any order issued by the local health board or officer within thirty days from the date of service of the order with the appeals commission established pursuant to RCW 35.80.030. All proceedings before the appeals commission, including any subsequent appeals to superior court, shall be governed by the procedures established in chapter 35.80 RCW.

(2) If the local health officer determines immediate action is necessary to protect public health, safety, or the environment, the officer may issue or cause to be issued an emergency order, and any person to whom such an order is directed shall comply immediately. Emergency orders issued pursuant to this section shall expire no later than seventy-two hours after issuance and shall not impair the health officer from seeking an order under subsection (1) of this section.

- WASH. ADMIN. CODE § 246-205-560 (2008): (1) Within ten working days after the local health officer's determination that a property is contaminated, the local health officer shall cause to be served, either personally or by certified mail, return receipt requested, an order prohibiting use to all known:

  (a) Occupants; and

  (b) Persons having an interest in the property as shown upon the records of the auditor's office of the county in which the property is located.

  (2) If the whereabouts of persons described under subsection (1) of this section is unknown and the same cannot be ascertained by the local health officer in the exercise of

reasonable diligence, and the health officer makes an affidavit to that effect, then the serving of the order upon such persons may be made by:

(a) Personal service; or

(b) Mailing a copy of the order by certified mail, postage prepaid, return receipt requested:

(i) To each person at the address appearing on the last equalized tax assessment roll of the county where the property is located; or

(ii) At the address known to the county assessor.

(3) The local health officer shall also mail a copy of the order addressed to each person or party having a recorded right, title, estate, lien, or interest in the property.

(4) The local health officer's order shall:

(a) Describe the local health officer's intended course of action;

(b) Describe the penalties for noncompliance with the order;

(c) Prohibit use of all or portions of the property as long as the property is contaminated;

(d) Describe what measures a property owner must take to have the property decontaminated; and

(e) Indicate the potential health risks involved.

(5) The local health officer shall:

(a) File a copy of the order prohibiting use of the property with the county auditor;

(b) Provide a copy of the order to the local building or code enforcement department; and

(c) Post the order in a conspicuous place on the property within one working day of issuance of the order.

(6) The local health officer's order shall advise that:

(a) A hearing before the local health officer or local health board shall be held upon the request of a person required to be notified of the order;

(b) The person's request for a hearing shall be made within ten days of the local health officer's serving of the order;

(c) The hearing shall be held not less than twenty days nor more than thirty days after the serving of the order; and

(d) In any hearing concerning whether property is contaminated, the property owner has the burden of showing that the property is decontaminated and meets the decontamination standards of WAC 246-205-541.

WEST VIRGINIA

"Lab" Definition

- W. VA. CODE ANN. § 60A-11-2 (West 2008): In this article:

  (a) "Clandestine drug laboratory" means the area or areas where controlled substances, or their immediate precursors, have been, or were attempted to be, manufactured, processed, cooked, disposed of or stored and all proximate areas that are likely to be contaminated as a result of such manufacturing, processing, cooking, disposing or storing.

- W. VA. CODE R. § 64-92-2.2 (2008): 2.2. "Clandestine drug laboratory" means the area or areas where controlled substances, or their immediate precursors, have been, or were attempted to be, manufactured, processed, cooked, disposed of or stored and all proximate areas that are likely to be contaminated as a result of such manufacturing, processing, cooking, disposing or storing.

"Property" Definition

- W. VA. CODE ANN. § 60A-11-2(g) (West 2008): In this article:

  (g) "Residential property" means any building or structure to be primarily occupied by people, either as a dwelling or as a business, including, but not limited to, a storage facility, a mobile home, manufactured home or recreational vehicle, hotel or motel that may be sold, leased or rented for any length of time.

- W. VA. CODE R. § 64-92-2.14 (2008): 2.14. "Residential property" means any building or structure to be primarily occupied by people, either as a dwelling or as a business, including, but not limited to, a storage facility, a mobile home, manufactured home or

recreational vehicle, hotel or motel that may be sold, leased or rented for any length of time.

Determination of Existence of Lab

- W. VA. CODE ANN. § 60A-11-4 (West 2008): Any law-enforcement agency, upon locating chemicals, equipment, supplies or precursors indicative of a clandestine drug laboratory on residential property, shall notify the residential property owner and the department in a manner prescribed by the legislative rule authorized by this article.

Appeal of Determination

- W. VA. CODE R. § 64-92-14 (2008): Those individuals adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in the manner prescribed by the Bureau for Public Health's Rules and Procedures for Contested Case Hearings and Declaratory Rulings, 64 CSR 1.

WISCONSIN

- NOT FOUND

WYOMING

"Lab" Definition

- WYO. STAT. ANN. § 35-7-1058 (2008): (a) As used in this article:

  (ii) "Clandestine laboratory operation" means:

  (A) Purchasing or procuring chemicals, supplies, equipment or a laboratory location for the illegal manufacture of controlled substances;

  (B) Transporting or arranging for the transportation of chemicals, supplies or equipment for the illegal manufacture of controlled substances;

  (C) Setting up equipment or supplies in preparation for the illegal manufacture of controlled substances; or

  (D) Distributing or disposing of chemicals, equipment, supplies or products used in or produced by the illegal manufacture of controlled substances.

"Property" Definition

- NOT FOUND

METHAMPHETAMINE LAB DETERMINATION & APPEAL OF DETERMINATION

Determination

- WYO. STAT. ANN. § 35-9-153(h), (j) (2008): (h) The commission shall, by rule and regulation, establish standards for protection of the safety of responding personnel during clandestine laboratory incident responses, standards for determining a site uninhabitable under W.S. 35-9-156(d), standards for determining the extent of contamination and standards for remediation required to render former clandestine laboratory operation sites safe for re-entry, habitation or use with respect to the following:

  (i) Decontamination and sampling standards and best management practices for the inspection and decontamination of property and the disposal of contaminated debris;

  (ii) Appropriate methods for the testing of buildings and interior surfaces, furnishings, soil and septic tanks for contamination;

  (iii) When testing for contamination may be required; and

  (iv) When a site may be declared remediated.

  (j) The commission shall, by rule and regulation, establish due process standards for the protection of the property interests of real estate owners, subject to subsection (h) of this section.

- WYO. STAT. ANN. § 35-9-156 (2008): (a) Every political subdivision of the state shall designate a local emergency response authority for responding to and reporting of hazardous material or weapons of mass destruction incidents that occur within its jurisdiction. The designation of a local emergency response authority and copies of any accompanying agreements and other pertinent documentation created pursuant to this section shall be filed with the director, office of homeland security within seven (7) days of the agreement being reduced to writing and signed by all appropriate persons.

  (b) Every local emergency response authority shall coordinate the response to an incident occurring within its jurisdiction in a fashion consistent with standard incident command protocols. The local emergency response authority shall also coordinate the response to an incident which initially occurs within its jurisdiction but which spreads to another jurisdiction. If an incident occurs on a boundary between two (2) jurisdictions or in an area not readily ascertainable, the first local emergency response authority arriving at the scene shall coordinate the initial emergency response and shall be responsible for seeking reimbursement for the incident on behalf of all responding authorities entitled to reimbursement under W.S. 35-9-157(a).

(c) Any unusual incident involving hazardous materials or weapons of mass destruction and any incident involving a clandestine laboratory operation shall be investigated to determine if a criminal act has occurred until it is determined otherwise. To ensure preservation of evidence while mitigating the threat to life and property under this subsection, a command structure with primary command authority by the appropriate law enforcement agency shall be implemented.

(d) The incident commander shall declare an incident ended when he has determined the threat to public health and safety has ended. Until the incident commander has declared the threat to public safety has ended the incident commander shall have the authority to issue an order on behalf of the political subdivision that any portion of the building, structure or land is uninhabitable, secure the portion of the building, structure or land that is uninhabitable and take appropriate steps to minimize exposure to identified or suspected contamination at the site or premise. If the subject of the site or premise is commercial real estate, the incident commander shall limit the declaration of uninhabitable to the areas affected by the clandestine laboratory operation and shall not declare the entire commercial real estate uninhabitable unless the entire commercial property has been documented and determined uninhabitable using the standards promulgated by the state emergency response commission under W.S. 35-9-153(h). The incident commander shall provide written notice to the commercial real estate owner, describing with specificity the extent of the commercial property deemed uninhabitable. Any property that is ordered uninhabitable under this subsection shall only be transferred or sold prior to remediation if full, written disclosure is made to the prospective purchaser, attached to the earnest money receipt if any, and shall accompany the sale documents but not be a part of the deed nor shall it be recorded. The transferor or seller shall notify the incident commander of the transfer or sale within ten (10) days of the transfer or sale.

(e) The order issued under subsection (d) of this section shall be in writing, shall state the grounds for the order and shall be filed in the office of the clerk of the district court of the county in which the building or structure is situated. A copy of the order shall be served in accordance with the Wyoming Rules of Civil Procedure upon the owner and any occupants of the building or structure with a written notice that the order has been filed and shall remain in force, unless the owner or occupant files his objections or answer with the clerk of the district court within the time specified in subsection (f) of this section. A copy of the order shall be posted in a conspicuous place upon the building or structure.

(f) Within twenty (20) days of service of an order issued under subsection (d) of this section, the owner or occupant may file with the clerk of the district court and serve upon the political subdivision issuing the order, an answer denying the existence of any of the

allegations in the order. If no answer is filed and served, the court shall affirm the order declaring the site uninhabitable and fix a time when the order shall be enforced. If an answer is filed and served, the court shall hear and determine the issues raised as set forth in subsection (g) of this section.

(g) The court shall hold a hearing within eleven (11) days from the date of the filing of the answer. If the court sustains the order, the court shall fix a time within which the order shall be enforced. Otherwise, the court shall annul or set aside the order declaring the property to be uninhabitable.

(h) An appeal from the judgment of the district court may be taken by any party to the proceeding in accordance with the Wyoming Rules of Appellate Procedure.

Appeal of Determination

- WYO. STAT. ANN. § 35-9-153(h), (j) (2008): (h) The commission shall, by rule and regulation, establish standards for protection of the safety of responding personnel during clandestine laboratory incident responses, standards for determining a site uninhabitable under W.S. 35-9-156(d), standards for determining the extent of contamination and standards for remediation required to render former clandestine laboratory operation sites safe for re-entry, habitation or use with respect to the following:

  (i) Decontamination and sampling standards and best management practices for the inspection and decontamination of property and the disposal of contaminated debris;

  (ii) Appropriate methods for the testing of buildings and interior surfaces, furnishings, soil and septic tanks for contamination;

  (iii) When testing for contamination may be required; and

  (iv) When a site may be declared remediated.

  (j) The commission shall, by rule and regulation, establish due process standards for the protection of the property interests of real estate owners, subject to subsection (h) of this section.

- WYO. STAT. ANN. § 35-9-156(d)-(h) (2008): (d) The incident commander shall declare an incident ended when he has determined the threat to public health and safety has ended. Until the incident commander has declared the threat to public safety has ended the incident commander shall have the authority to issue an order on behalf of the political subdivision that any portion of the building, structure or land is uninhabitable, secure the portion of the building, structure or land that is uninhabitable and take

appropriate steps to minimize exposure to identified or suspected contamination at the site or premise. If the subject of the site or premise is commercial real estate, the incident commander shall limit the declaration of uninhabitable to the areas affected by the clandestine laboratory operation and shall not declare the entire commercial real estate uninhabitable unless the entire commercial property has been documented and determined uninhabitable using the standards promulgated by the state emergency response commission under W.S. 35-9-153(h). The incident commander shall provide written notice to the commercial real estate owner, describing with specificity the extent of the commercial property deemed uninhabitable. Any property that is ordered uninhabitable under this subsection shall only be transferred or sold prior to remediation if full, written disclosure is made to the prospective purchaser, attached to the earnest money receipt if any, and shall accompany the sale documents but not be a part of the deed nor shall it be recorded. The transferor or seller shall notify the incident commander of the transfer or sale within ten (10) days of the transfer or sale.

(e) The order issued under subsection (d) of this section shall be in writing, shall state the grounds for the order and shall be filed in the office of the clerk of the district court of the county in which the building or structure is situated. A copy of the order shall be served in accordance with the Wyoming Rules of Civil Procedure upon the owner and any occupants of the building or structure with a written notice that the order has been filed and shall remain in force, unless the owner or occupant files his objections or answer with the clerk of the district court within the time specified in subsection (f) of this section. A copy of the order shall be posted in a conspicuous place upon the building or structure.

(f) Within twenty (20) days of service of an order issued under subsection (d) of this section, the owner or occupant may file with the clerk of the district court and serve upon the political subdivision issuing the order, an answer denying the existence of any of the allegations in the order. If no answer is filed and served, the court shall affirm the order declaring the site uninhabitable and fix a time when the order shall be enforced. If an answer is filed and served, the court shall hear and determine the issues raised as set forth in subsection (g) of this section.

(g) The court shall hold a hearing within eleven (11) days from the date of the filing of the answer. If the court sustains the order, the court shall fix a time within which the order shall be enforced. Otherwise, the court shall annul or set aside the order declaring the property to be uninhabitable.

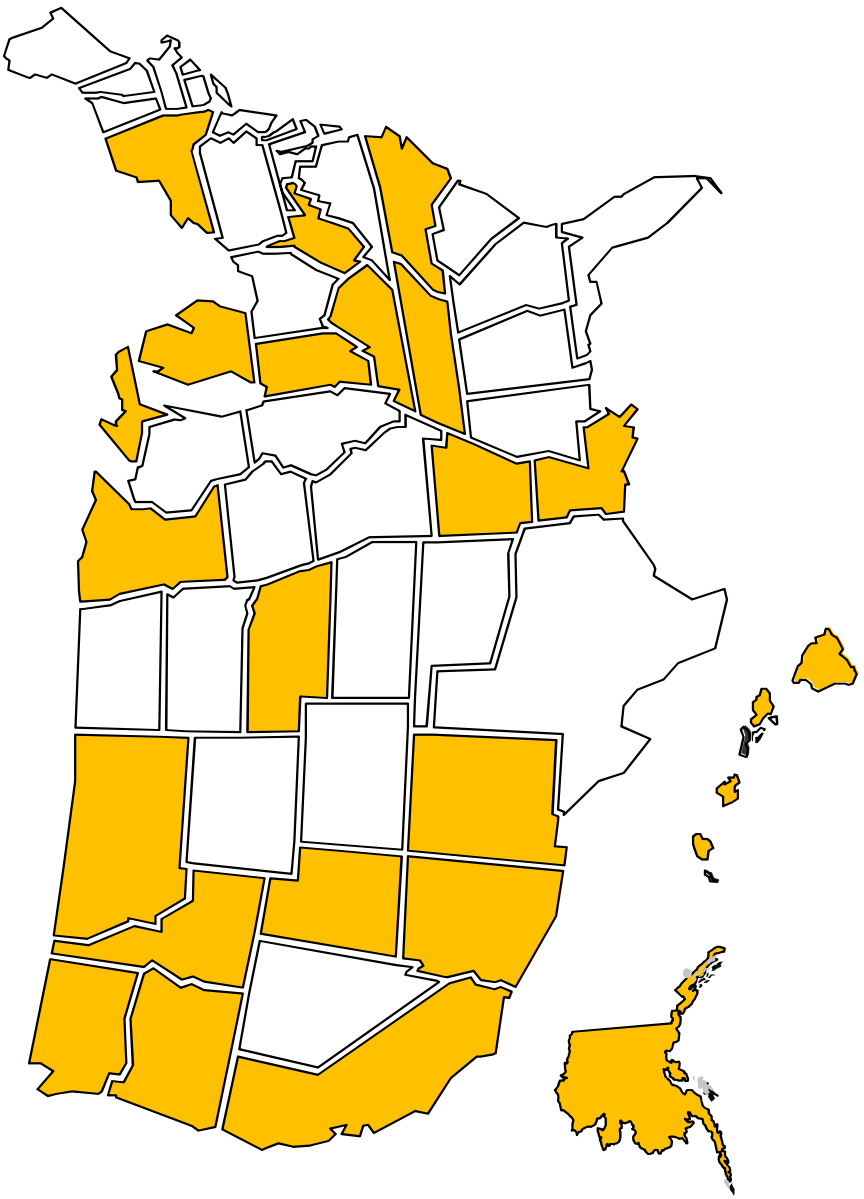
(h) An appeal from the judgment of the district court may be taken by any party to the proceeding in accordance with the Wyoming Rules of Appellate Procedure.

NOTICE TO AGENCY

As used here, "Notice to Agency" generally refers to the mandate imposed by law upon members of local and/or state law enforcement officials to notify other state agencies, such as the state health department, the state environment department, other law enforcement agencies, and fire departments, of the discovery of a clandestine drug laboratory or contamination due to the illegal manufacture of a controlled substance on a property or within a vehicle. In some instances, a property owner who has knowledge or receives notice of the presence of a clandestine laboratory or contamination due to illegal manufacture of a controlled substance on their property or within their vehicle will be legally required to notify a state agency of the contamination.

Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

STATES WITH STATUTES, REGULATIONS OR GUIDELINES THAT REQUIRE NOTICE OF CONTAMINATION BE GIVEN TO AN AGENCY



NOTICE TO AGENCY

ALABAMA

- NOT FOUND

ALASKA

- ALASKA STAT. § 46.03.500(a), (c) (2008): (a) When a law enforcement officer or team of law enforcement officers, qualified under federal regulations to investigate and dismantle illegal drug manufacturing sites, determines that a site constitutes an illegal drug manufacturing site, the primary law enforcement agency that conducted the investigation shall notify the owner of the property, the occupants and users of the property, and the department that the determination has been made…

  (c) The notice to the department required under (a) of this section must include

  (1) the parcel identification number and legal description of the property where the site is located;

  (2) a statement of the determination made by the primary law enforcement agency that the site was an illegal drug manufacturing site and the findings that formed the basis for the determination; and

  (3) the name and mailing address of the person who owns the property where the site is located.

ARIZONA

- ARIZ. REV. STAT. ANN. § 12-1000(A)(2) (2008): A. If a peace officer discovers a clandestine drug laboratory or arrests a person for having on any real property chemicals or equipment used in manufacturing methamphetamine, ecstasy or LSD or a derivative of methamphetamine, ecstasy or LSD, the peace officer:

  2. Within two business days after the discovery or arrest, shall send the notice of removal by certified mail to the owner of the real property and the owner's on-site manager or, in the case of a space rental mobile home or recreational vehicle park, to the owner of the mobile home or recreational vehicle, if applicable, and to the park landlord. These persons are deemed to receive the notice of removal five days after the notice is mailed. The notice shall be sent to the following:

  (a) The owner's address on file with the county assessor. The county shall waive any fee or charge for the owner's address information.

  (b) The county health department.

(c) The appropriate local fire department.

(d) The state board of technical registration.

ARKANSAS

- ARK. CODE ANN. § 8-7-1403 (West 2007): (a) If a private property owner finds an abandoned laboratory for the manufacture of controlled substances on his or her property and there has been no active on-site law enforcement involvement, the property owner shall notify local law enforcement for proper removal of contaminated material.

  (b)(1) If a property owner finds or becomes aware of evidence of a laboratory for the manufacture of controlled substances on his or her property, the property owner shall have the property inspected in accordance with the guidelines established by the Arkansas Department of Environmental Quality under this subchapter by a contractor certified by the department under § 8-7-1402.

  (2) If the contractor selected by the property owner under subdivision (b)(1) of this section verifies that a laboratory for the manufacture of controlled substances has been on the property, the contractor shall notify the department and the department shall place the property on the contaminated properties list under § 8-7-1404.

- ARK. CODE ANN. § 8-7-1405(b)(3) (West 2007): (b)(3) The Arkansas Department of Environmental Quality shall cooperate with the Arkansas Crime Information Center to create a computer link that will allow the center to transfer to the department information from the National Clandestine Laboratory Seizure Report required under 28 C.F.R. Part 23 that is relevant to the notice of removal required under subsection (d) of this section.

CALIFORNIA

- CAL. HEALTH & SAFETY CODE§ 25400.18 (West 2008): Within 48 hours after receiving notification from a law enforcement agency of potential contamination of property by a methamphetamine laboratory activity, the local health officer shall…

COLORADO

- NOT FOUND

CONNECTICUT

- NOT FOUND

DELAWARE

NOTICE TO AGENCY

- NOT FOUND

FLORIDA

- NOT FOUND

GEORGIA

- NOT FOUND

HAWAII

- HAW. CODE R. § 11-452-25 (Weil 2007): (a) After any laboratory or other equipment and hazardous materials are removed from the methamphetamine manufacturing site, law enforcement personnel shall place a warning in a conspicuous location on the site to any potential visitors, licensees or trespassers to the site, that the methamphetamine manufacturing site may pose a health hazard.

  (b) The chief law enforcement officer shall notify the owner of the property that the property was utilized as a methamphetamine manufacturing site.

  (c) Upon receiving notice from the chief law enforcement officer, the owner of the property shall contact the hazard evaluation and emergency response office within seventy-two (72) hours.

- HAW. CODE R. § 11-452-26 (Weil 2007): (a) The chief law enforcement officer shall make a determination as to the existence of a methamphetamine manufacturing site.

  (b) Once the chief law enforcement officer has made a determination, the chief law enforcement officer shall contact the hazard evaluation and emergency response office and submit a report…

IDAHO

- IDAHO CODE ANN. § 6-2605 (2008): Following the adoption of rules pursuant to Section 6-2604, Idaho Code, and using a format established by the department, a law enforcement agency, upon locating chemicals, equipment, supplies or immediate precursors indicative of a clandestine drug laboratory on a residential property, shall notify the residential property owner and the department.

- IDAHO ADMIN. CODE r. § 16.02.24.120.01 (2008): 01. Listing a Property. Upon notification by a law enforcement agency, using the department approved from, the department will place the property on a Clandestine Drug Laboratory Site Property List. No property may be listed unless the reporting law enforcement agency certifies, on the

approved form, that it is more likely than not that the property has been contaminated through use as a clandestine laboratory. The list will be publicly available online at: http://www.healthy.idaho.gov.

ILLINOIS

- NOT FOUND

INDIANA

- IND. CODE ANN. § 5-2-15-3 (West 2008): A law enforcement agency that terminates the operation of a methamphetamine laboratory shall report the existence and location of the methamphetamine laboratory to:

  (1) the state police department;

  (2) the local fire department that serves the area in which the methamphetamine laboratory is located;

  (3) the county health department or, if applicable, multiple county health department of the county in which the methamphetamine laboratory is located; and

  (4) the Indiana criminal justice institute;

  on a form and in the manner prescribed by guidelines adopted by the superintendent of the state police department under IC 10-11-2-31.

IOWA

- NOT FOUND

KANSAS

- NOT FOUND

KENTUCKY

- KY. REV. STAT. ANN. § 224.01-410(5) (West 2007) (as amended by HB 765): (5) Upon a determination that an inhabitable property is a contaminated property under subsection (4) of this section, the state or local law enforcement agency shall notify the cabinet of its findings and results of assessment.

LOUISIANA

- LA. REV. STAT. ANN. § 9:3198.1(A) (2008) (as amended by 2008 S.B. 801): A. Whenever a state or local law enforcement agency becomes aware that residential real property has

been contaminated by its use as a clandestine methamphetamine drug lab, the agency shall report the contamination to the Department of Environmental Quality, hereinafter referred to as the "department," and to the local sheriff's office.

MAINE

- NOT FOUND

MARYLAND

- NOT FOUND

MASSACHUSETTS

- NOT FOUND

MICHIGAN

- MICH. COMP. LAWS ANN. § 125.485a(1) (West 2008): Within 48 hours of discovering an illegal drug manufacturing site, a state or local law enforcement agency shall notify the local health department and the department of community health regarding the potential contamination of any property or dwelling that is or has been the site of illegal drug manufacturing. The state or local law enforcement agency shall post a written warning on the premises stating that potential contamination exists and may constitute a hazard to the health or safety of those who may occupy the premises.

- MICH. COMP. LAWS ANN. § 333.12103(3) (West 2008): (3) Within 48 hours of discovering an illegal drug manufacturing site, a state or local law enforcement agency shall notify the local health department and the department of community health regarding the potential contamination of any property or dwelling that is or has been the site of illegal drug manufacturing. The state or local law enforcement agency shall post a written warning on the premises stating that potential contamination exists and may constitute a hazard to the health or safety of those who may occupy the premises…

- MICH. COMP. LAWS ANN. § 333.26372 (West 2008): The department of state police shall transmit to the department of community health information obtained under the methamphetamine reporting act regarding the discovery of any methamphetamine laboratory in this state. The department of community health, upon receiving the information, shall post on its internet website the location of the methamphetamine laboratory and the name of the law enforcement agency or other agency that reported the existence of the methamphetamine laboratory.

MINNESOTA

NOTICE TO AGENCY

- MINN. STAT. ANN. § 152.0275, Subd. 2(b) (West 2008): (b) A peace officer who arrests a person at a clandestine lab site shall notify the appropriate county or local health department, state duty officer, and child protective services of the arrest and the location of the site.

MISSISSIPPI

- NOT FOUND

MISSOURI

- NOT FOUND

MONTANA

- MONT. CODE ANN. § 75-10-1306 (2007): (1) Whenever a state or local law enforcement agency becomes aware that an inhabitable property has been contaminated by its use as a clandestine methamphetamine drug lab, the agency shall report the contamination to the department and to the local health officer.

NEBRASKA

- NEB REV. STAT. § 71-2432 (2007): A property owner with knowledge of a clandestine drug lab on his or her property shall report such knowledge and location as soon as practicable to the local law enforcement agency or to the Nebraska State Patrol. A law enforcement agency that discovers a clandestine drug lab in the State of Nebraska shall report the location of such lab to the Nebraska State Patrol within thirty days after making such discovery. Such report shall include the date of discovery of such lab, the county where the property containing such lab is located, and a legal description of the property or other description or address of such property sufficient to clearly establish its location. As soon as practicable after such discovery, the appropriate law enforcement agency shall provide the Nebraska State Patrol with a complete list of the chemicals, including methamphetamine, its precursors, solvents, and related reagents, found at or removed from the location of such lab. Upon receipt, the Nebraska State Patrol shall promptly forward a copy of such report and list to the department, the Department of Environmental Quality, the municipality or county where the lab is located, the director of the local public health department serving such municipality or county, and the property owner or owners.

NEVADA

- NOT FOUND

NEW HAMPSHIRE

- NOT FOUND

NOTICE TO AGENCY

NEW JERSEY

- NOT FOUND

NEW MEXICO

- N.M. CODE R. § 20.4.5.10 (Weil 2008): A. Upon identification of a clandestine drug laboratory by a law enforcement agency where chemicals and equipment were removed or residual contamination was observed, the agency shall take the following actions.

  (1) Post a notice of contamination in a conspicuous place at the clandestine drug laboratory.

  (2) Deliver a copy of the notice of contamination to the owner of the property if the owner is on the site at the time of delivery, the on-site manager if the manager is on the site at the time of delivery or the on-site drop box if available. In the case of a tenant-owned unit in a space rental mobile home or recreational vehicle park, the agency shall deliver a copy of the notice of removal to the occupant of the unit if the occupant is on site at the time of delivery and to the on-site park landlord if the park landlord is on site at the time of delivery.

  (3) Document proof of posting the notice of contamination, which proof of posting shall be considered notice to the owner if the owner of the clandestine drug laboratory cannot be identified.

  (4) Deliver a copy of the notice of contamination to the department's hazardous waste bureau chief within seven days after identification of the clandestine drug laboratory. The law enforcement agency shall inform the department whether or not the agency was able to personally deliver the notice to the owner or on-site manager of the property.

  B. Upon receiving a copy of the notice of contamination from a law enforcement agency, the department shall send a copy of the notice of contamination by certified mail, return receipt requested, to the owner at the owner's last known address contained in records of the county assessor where the clandestine drug laboratory is located if the owner of the clandestine drug laboratory or, if the clandestine drug laboratory is a mobile home or recreational vehicle, the owner of a mobile home or recreational vehicle space-rental or space-purchase park where the clandestine drug laboratory may be located, is not personally provided a copy of the notice of contamination pursuant to Subsection A of this section. Proof of mailing shall be considered notice to the owner. The owner is presumed to have received the notice of contamination five days after the notice is mailed.

NOTICE TO AGENCY

NEW YORK

- N.Y. GEN. MUN. LAW § 209-dd (McKinney 2008): All emergency services personnel, as defined in section two hundred nine-cc of this article, shall be provided with information on recognizing the signs of an unlawful methamphetamine laboratory. Pursuant to section 19.27 of the mental hygiene law, the office of alcoholism and substance abuse services shall make such information on recognizing the signs of unlawful methamphetamine laboratories available to such personnel. Emergency services personnel shall notify or cause to be notified the division of state police regarding the location of any such unlawful methamphetamine laboratory.

- N.Y. EXEC. LAW § 221-d (McKinney 2008): 1. Whenever a law enforcement agency discovers or recognizes the presence of an unlawful methamphetamine laboratory, such agency shall, as soon as reasonably practicable, notify, or cause to be notified, the division of state police regarding the location of such laboratory.

  2. Whenever the division of state police receives a report of an unlawful methamphetamine laboratory, or discovers or recognizes the presence of an unlawful methamphetamine laboratory, such division, as soon as reasonably practicable shall notify, or cause to be notified, the department of environmental conservation of such information.

NORTH CAROLINA

- 10A N.C. ADMIN. CODE 41D.0101(d) (West 2008): (d) When law enforcement officials have posted a notice on property signifying that the property had been used as a clandestine methamphetamine laboratory, the law enforcement officials shall immediately notify the local health department of the presence of the laboratory. The local health department shall immediately inform the property owner of record or his agent that the property has been used as a methamphetamine laboratory, inform him that the property must be vacated, and inform him of the requirement placed upon a responsible party to remediate the property in accordance with these rules prior to the property being reoccupied.

NORTH DAKOTA

- NOT FOUND

OHIO

- NOT FOUND

OKLAHOMA

- NOT FOUND

NOTICE TO AGENCY

OREGON

- OR. REV. STAT. ANN. § 453.879 (2007): When the Director of Human Services or a designee thereof, the State Fire Marshal or designee thereof or any law enforcement agency makes a determination that property subject to ORS 105.555, 431.175 and 453.855 to 453.912 is not fit for use, the Director of Human Services or designee thereof shall notify the Director of the Department of Consumer and Business Services of the determination. The Director of the Department of Consumer and Business Services shall list the property as not fit for use until the Director of the Department of Consumer and Business Services is notified that the property has been certified by the Department of Human Services pursuant to ORS 453.885, or the initial determination is reversed on appeal, or the property is destroyed. Upon receipt of the certificate, the Director of the Department of Consumer and Business Services shall cause the property to be removed from the list described in this section.

- OR. ADMIN. R. § 333-040-0050(3)(a)-(b) & (4) (2008): (3) An agency determining property unfit for use shall proceed as follows:

  (a) Notify the owner or agent of the affected property by personal service or by certified mail sent within 3 working days of the determination. Proof of such mailing shall be considered service. Proof of actual delivery is not required. Where the owner of record or the title or certificate holder is not listed in public records or cannot be reasonably notified, service of notice on the registered agent or other designated agent is sufficient;

  (b) Mail a copy of the notice to the owner/agent as required in subsection (3)(a) of this rule to the Division. The Division shall notify the State Building Codes Division, the Department of Motor Vehicles, the State Marine Board and/or other affected agencies…

  (4) The notice required in subsection (3)(a) of this rule shall include all of the specific information in the sample notice available from the Division, but need not be identical in form. This notice shall also include a statement that the owner may obtain a hearing by making a written request to the agency making the determination within 30 days.

PENNSYLVANIA

- NOT FOUND

RHODE ISLAND

- NOT FOUND

SOUTH CAROLINA

- NOT FOUND

SOUTH DAKOTA

- NOT FOUND

TENNESSEE

- TENN. CODE ANN. § 68-212-509 (West 2008): (a) Within seven (7) days of issuing an order of quarantine, the law enforcement agency that issued the order shall transmit to the commissioner at least the following information regarding the site:

  (1) The date of the quarantine order;

  (2) The county;

  (3) The address;

  (4) The name of the owner of the site; and

  (5) A brief description of the site, such as single family home, apartment, motel, wooded area, etc.

  (b) The department of environment and conservation shall maintain a registry of all properties reported by a law enforcement agency that have been under order of quarantine for at least sixty (60) days. The registry shall be available for public inspection at the department and shall be posted on its website. Listed properties shall be removed from the registry when a law enforcement agency reports that the quarantine has been lifted in accordance with this part.

TEXAS

- NOT FOUND

UTAH

- UTAH CODE ANN. § 19-6-903 (West 2008): (1)(a) When any state or local law enforcement agency in the course of its official duties observes any paraphernalia of a clandestine drug laboratory operation, including chemicals or equipment used in the manufacture of unlawful drugs, the agency shall report the location where the items were observed to the local health department.

NOTICE TO AGENCY

(b)(i) The law enforcement officer shall make the report under Subsection (1)(a) at the location where the observation occurred, if making the report at that time will not compromise an ongoing investigation.

(ii) If the report cannot be made at the location, the report shall be made as soon afterward as is practical.

(c) The report under Subsection (1)(a) shall include:

(i) the date of the observation;

(ii) the name of the reporting agency and the case number of the case that involves the location of the observation;

(iii) the contact information of the officer involved, including name and telephone number;

(iv) the address of the location and descriptions of the property that may be contaminated; and

(v) a brief description of the evidence at the location that led to the belief the property at the location may be contaminated.

(2) The law enforcement agency shall forward to the local health department copies of the reports made under Subsection (1).

(3)(a) Upon receipt of a complaint or a report from law enforcement regarding possibly contaminated property, the local health officer or his designee shall determine if reasonable evidence exists that the property is contaminated.

(b) The local health department shall place property considered to be contaminated on a contamination list.

(4) The local health departments shall maintain searchable records of the properties on their contamination lists and shall:

(a) make the records reasonably available to the public;

(b) provide written notification to persons requesting access to the records that the records are only advisory in determining if specific property has been contaminated by clandestine drug lab activity; and

(c) remove the contaminated property from the list when the following conditions have been met:

(i) the local health department has monitored the decontamination process and, after documenting that the test results meet decontamination standards, has authorized the removal of or purging of the contamination information from the department's records; or

(ii) a certified decontamination specialist submits a report to the local health department stating that the property is decontaminated.

- UTAH CODE ANN. § 19-6-904 (West 2008): (1) A certified decontamination specialist is required to report to the local health department the location of any property that is the subject of decontamination work by that decontamination specialist. The report shall be submitted prior to commencement of the decontamination work.

  (2) The report under Subsection (1) shall include:

  (a) sufficient information to allow the local health department to investigate and verify the location of the property, including the address and description of the property; and

  (b) a proposed work plan for decontaminating the property.

  (3) Upon completion of the decontamination process, a report certifying that the property is decontaminated shall be submitted to the local health department within 30 days.

VERMONT

- NOT FOUND

VIRGINIA

- NOT FOUND

WASHINGTON

- WASH. REV. CODE ANN. § 64.44.020 (West 2008): Whenever a law enforcement agency becomes aware that property has been contaminated by hazardous chemicals, that agency shall report the contamination to the local health officer. The local health officer shall cause a posting of a written warning on the premises within one working day of notification of the contamination and shall inspect the property within fourteen days after receiving the notice of contamination. The warning posting for any property that includes a hotel or motel holding a current license under RCW 70.62.220, shall be limited to

inside the room or on the door of the contaminated room and no written warning posting shall be posted in the lobby of the facility. The warning shall inform the potential occupants that hazardous chemicals may exist on, or have been removed from, the premises and that entry is unsafe. If a property owner believes that a tenant has contaminated property that was being leased or rented, and the property is vacated or abandoned, then the property owner shall contact the local health officer about the possible contamination. Local health officers or boards may charge property owners reasonable fees for inspections of suspected contaminated property requested by property owners.

A local health officer may enter, inspect, and survey at reasonable times any properties for which there are reasonable grounds to believe that the property has become contaminated. If the property is contaminated, the local health officer shall post a written notice declaring that the officer intends to issue an order prohibiting use of the property as long as the property is contaminated.

If access to the property is denied, a local health officer in consultation with law enforcement may seek a warrant for the purpose of conducting administrative inspections. A superior, district, or municipal court within the jurisdiction of the property may, based upon probable cause that the property is contaminated, issue warrants for the purpose of conducting administrative inspections.

Local health officers must report all cases of contaminated property to the state department of health. The department may make the list of contaminated properties available to health associations, landlord and realtor organizations, prosecutors, and other interested groups. The department shall promptly update the list of contaminated properties to remove those which have been decontaminated according to provisions of this chapter.

The local health officer may determine when the services of an authorized contractor are necessary.

- WASH. ADMIN. CODE § 246-205-550 (2008): When property is determined contaminated, the local health officer shall report the contaminated property to the state department of health:

  (a) By telephone or e-mail within one working day; and

  (b) In writing within ten working days.

(2) The local health officer's written contamination report to the state department of health shall include:

(a) Description of the findings;

(b) Conclusions;

(c) Name of the property owner;

(d) Mailing and street address, including zip code and county, of the property owner;

(e) Parcel identification number and legal description of the property to including township and section;

(f) Tax account number; and

(g) Date property determined contaminated.

WEST VIRGINIA

- W. VA. CODE ANN. § 60A-11-4 (West 2008): Any law-enforcement agency, upon locating chemicals, equipment, supplies or precursors indicative of a clandestine drug laboratory on residential property, shall notify the residential property owner and the department in a manner prescribed by the legislative rule authorized by this article.

- W. VA. CODE R. § 64-92-5.1. (2008): 5.1. The law enforcement agency responsible for the seizure of a clandestine drug laboratory shall:

  5.1.a. Notify the residential property owner within twenty four hours of the seizure;

  5.1.b. Notify the department within twenty four hours of the seizure providing name and mailing address of property owner and physical location of the seized property; and

  5.1.c. Provide the department with a manifest of all chemical substances removed from the residential property following the seizure within forty eight hours of the seizure.

WISCONSIN

- NOT FOUND

WYOMING

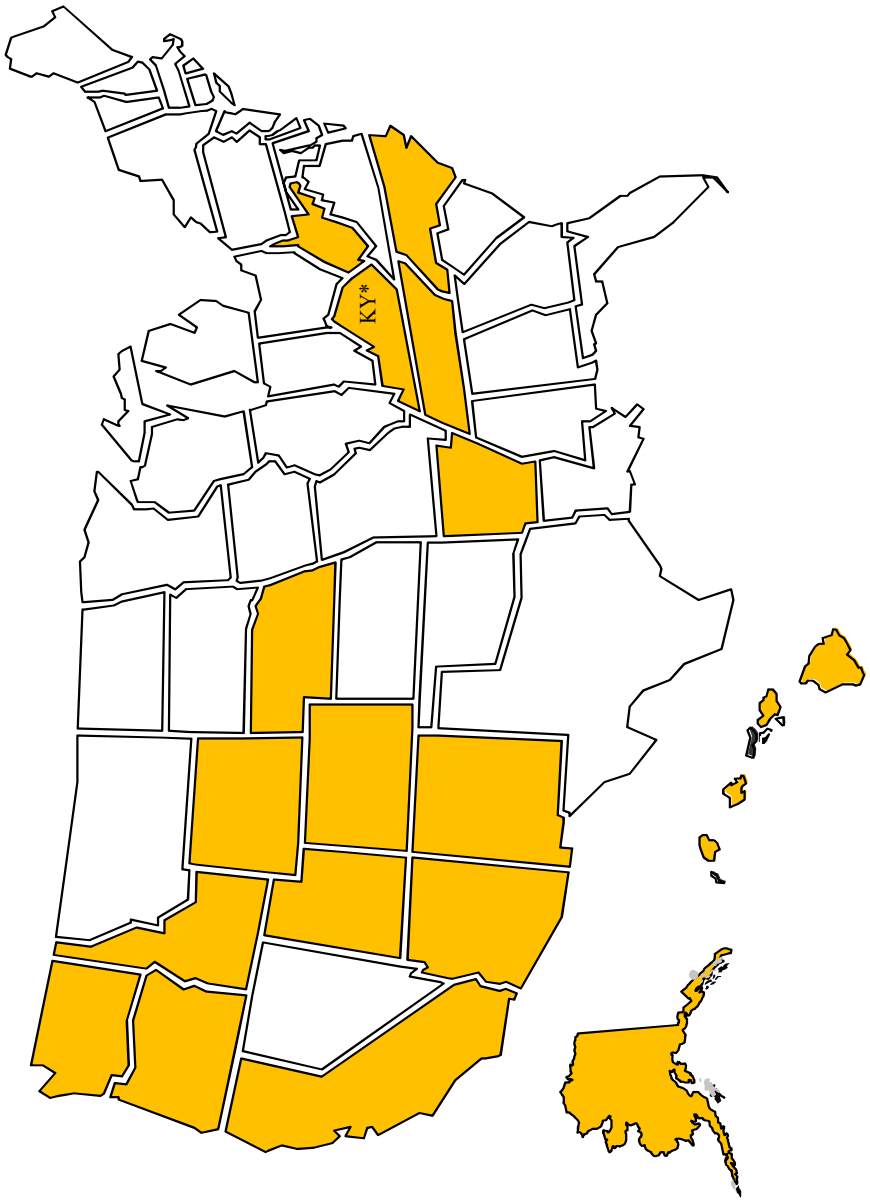
- NOT FOUND

NOTICE TO PROPERTY ONWER(s)/USER(s)

As used here, "Notice to Property Owner(s)/User(s)" generally refers to the mandate imposed by law upon members of law enforcement or members of the state health department to notify the property owner(s), tenant(s), neighbor(s), and other enumerated individuals of the discovery of a clandestine drug laboratory or contamination due to the illegal manufacture of a controlled substance on the property or within a vehicle. This notification will often provide other relevant information, such as the fact that property may not be used, occupied or transferred until it is remediated, any duty a property owner may have to notify others of the state of the property, the fact that the property will be listed in a contaminated property registry or database, any measure that must be taken to remediate the property, and penalties for failing to comply with state statutes and regulations regarding the contaminated property.

Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

STATES WITH STATUTES, REGULATIONS OR GUIDELINES THAT REQUIRE NOTICE OF CONTAMINATION TO BE GIVEN TO PROPERTY OWNER(S)/USER(S)



*Kentucky House Bill 765, signed by the Governor on April 24, 2008, directs the Department for Public Health to promulgate administrative regulations establishing notice requirements and a process for removing the notice from inhabitable properties.

NOTICE TO PROPERTY OWNER(s)/USER(s)

ALABAMA

- NOT FOUND

ALASKA

- ALASKA STAT. § 46.03.500(a)-(b) & (d)-(e) (2008): (a) When a law enforcement officer or team of law enforcement officers, qualified under federal regulations to investigate and dismantle illegal drug manufacturing sites, determines that a site constitutes an illegal drug manufacturing site, the primary law enforcement agency that conducted the investigation shall notify the owner of the property, the occupants and users of the property, and the department that the determination has been made. The owner of the property may appeal the determination to the superior court for review of whether the determination was made in compliance with this subsection. In the appeal, the burden of proving by a preponderance of the evidence that the determination was made in compliance with this subsection is on the primary law enforcement agency that conducted the investigation.

  (b) The notice to the property owner required under (a) of this section shall be given in a manner that is consistent with the Alaska Rules of Civil Procedure for the service of process in a civil action in this state and must include the following information:

  (1) the parcel identification number and legal description of the property where the site is located;

  (2) a statement of the determination made by the primary law enforcement agency that the site was an illegal drug manufacturing site and the findings that formed the basis for the determination;

  (3) a citation to, and short summary of, AS 46.03.510, which restricts transfer and occupancy of the site until it is determined to be fit for use; and

  (4) the following information, which shall be provided to the primary law enforcement agency by the department:

  (A) a copy of the standards contained in regulations adopted under AS 46.03.530 that determine whether the property is fit for use;

  (B) a copy of the sampling and testing procedures established under AS 46.03.520(b) and a copy of the list of laboratories maintained under AS 46.03.520(c) that must be used for determining whether the property is fit for use; and

(C) a copy of the guidelines for decontamination established by the department under AS 46.03.540(b).

(d) The notice required under (a) of this section for the occupants and users of the property shall be accomplished by immediate posting of the property with a notice that includes the location of the property, the information described in (b)(2) and (3) of this section, and a statement that the property may pose a substantial risk of physical harm to persons who occupy or use the property. For purposes of posting of the notice to the occupants and users of the property required by this subsection, the posting shall be made, for property that is

(1) a single family dwelling, at the main entryway of the property; and

(2) other than a single family dwelling and for a hotel, motel, public inn, or similar place of public accommodation that provides lodging, at the door of the unit that is the site that constitutes the illegal drug manufacturing site.

(e) If a person other than the owner, such as a property manager or rental agency, is authorized to let others use or occupy property for which an owner has received a notice under (a) of this section or is authorized to transfer, sell, lease, or rent the property to others, the owner of the property shall communicate the substance of the notice to that person within four days after receiving the notice.

ARIZONA

- ARIZ. REV. STAT. ANN. § 12-1000(A)-(B) (2008): A. If a peace officer discovers a clandestine drug laboratory or arrests a person for having on any real property chemicals or equipment used in manufacturing methamphetamine, ecstasy or LSD or a derivative of methamphetamine, ecstasy or LSD, the peace officer:

  1. At the time of the discovery or arrest, shall deliver a copy of the notice of removal pursuant to subsection B of this section to the owner of the real property if the owner is on the site at the time of delivery, the on-site manager if the manager is on the site at the time of delivery or the on-site drop box if available. In the case of a tenant-owned unit in a space rental mobile home or recreational vehicle park, the officer shall deliver a copy of the notice of removal to the occupant of the unit if the occupant is on site at the time of delivery and to the on-site park landlord if the park landlord is on site at the time of delivery.

  2. Within two business days after the discovery or arrest, shall send the notice of removal by certified mail to the owner of the real property and the owner's on-site manager or, in the case of a space rental mobile home or recreational vehicle park, to the owner of the

mobile home or recreational vehicle, if applicable, and to the park landlord. These persons are deemed to receive the notice of removal five days after the notice is mailed. The notice shall be sent to the following:

(a) The owner's address on file with the county assessor. The county shall waive any fee or charge for the owner's address information.

(b) The county health department.

(c) The appropriate local fire department.

(d) The state board of technical registration.

3. After a law enforcement or other agency removes the gross contamination on the real property, shall order the removal of all persons from the residually contaminated portion of the real property or dwelling unit, if applicable, or, in the case of a space rental mobile home or recreational vehicle park, from the unit located on the real property.

4. After the peace officer removes all persons pursuant to paragraph 3 of this subsection, shall affix the notice of removal in a conspicuous place on the real property or, in the case of a space rental mobile home or recreational vehicle park, on the unit located on the real property. The notice of removal shall state that it is unlawful for any person other than the owner, landlord or manager to enter the residually contaminated portion of the property until the owner remediates the residually contaminated portion of the property.

B. The notice of removal shall be in writing and shall contain all of the following:

1. The word “warning” in large bold type at the top and bottom of the notice,

2. A statement that a clandestine drug laboratory was seized or a person was arrested on the real property for having chemicals or equipment used in the manufacturing of methamphetamine, ecstasy or LSD on the real property.

3. The date of the seizure or arrest.

4. The address or location of the real property, including the identification of any dwelling unit, room number, apartment number or vehicle number.

5. The name of the law enforcement agency or other agency that seized the clandestine drug laboratory or made the arrest and the agency’s contact telephone number.

6. A statement that hazardous substances, toxic chemicals or other waste products may still be present on the real property or, in the case of a space rental mobile home or recreational vehicle park, in the unit located on the real property.

7. A statement that it is unlawful for any unauthorized person to enter the residually contaminated portion of the real property, or in the case of a space rental mobile home or recreation vehicle park, the unit located on the real property, until the owner, landlord or manager establishes that the portion of the real property noticed as residually contaminated has been remediated by a drug laboratory site remediation firm.

8. A statement that it is a class 6 felony to violate this section.

9. A statement that it is a class 2 misdemeanor to disturb the notice of removal posted on the real property.

10. A statement that the owner of the real property shall remediate the residually contaminated portion of the property in compliance with subsection C of this section.

11. A statement that if an owner fails to provide any notice required by this section, the owner is subject to a civil penalty and a buyer, tenant or customer may void a purchase contract, rental agreement or other agreement.

ARKANSAS

- ARK. CODE ANN. § 8-7-1405 (West 2007): (a) If a law enforcement officer discovers a laboratory for the manufacture of controlled substances or arrests a person for having equipment used in manufacturing controlled substances on any real property, the law enforcement officer shall at the time of the discovery or arrest deliver a copy of the notice of removal required under subsection (d) of this section to:

  (1) The owner of real property if the owner is present at the time of the discovery or arrest;

  (2) The on-site manager if the on-site manager is present at the time of the discovery or arrest;

  (3) An on-site drop box if available; or

  (4) In the case of a tenant-owner unit in a space-rental mobile home or recreational vehicle park to:

  (A) The occupant if the occupant is on site at the time of delivery; or

(B) The on-site park landlord if the on-site park landlord is present at the time of delivery.

(b)(1) If neither the owner nor the on-site manager of a property used in manufacturing controlled substances is on the property at the time of the discovery of or arrest regarding a laboratory for the manufacture of controlled substances, the law enforcement officer shall make every reasonable effort to obtain the necessary contact information concerning the owner from the tenant, property manager, or neighbors.

(2) Within five (5) business days after the discovery of or arrest regarding a laboratory for the manufacture of controlled substances, the law enforcement officer shall send the notice of removal required under subsection (d) of this section by certified mail and regular mail to the owner of the property and the owner's on-site manager or, in the case of a space-rental mobile home or a recreational vehicle park, to the park landlord.

(3) The Arkansas Department of Environmental Quality shall cooperate with the Arkansas Crime Information Center to create a computer link that will allow the center to transfer to the department information from the National Clandestine Laboratory Seizure Report required under 28 C.F.R. Part 23 that is relevant to the notice of removal required under subsection (d) of this section.

(d) The notice of removal under this section shall be in writing and shall contain all of the following:

(1) The word "WARNING" in large bold type at the top and the bottom of the notice;

(2) The date of the seizure and removal;

(3) The address or location of the property, including the identification of any dwelling unit, room number, apartment number, or vehicle number;

(4) The name of the law enforcement agency that seized the laboratory for the manufacture of controlled substances and the agency's contact telephone number;

(5) A list of telephone numbers and contact information for all local and state agencies involved in the process of remediation;

(6) The contact numbers for local and state agencies associated with the cleanup of laboratories for the manufacture of controlled substances; and

NOTICE TO PROPERTY OWNER(s)/USER(s)

(7) A statement that:

(A) A laboratory for the manufacture of controlled substances was discovered on the property;

(B) Chemicals or equipment, or both, that were used in the manufacture of controlled substances were seized at the property;

(C) Hazardous substances, toxic chemicals, or other waste products may still be present on the property or, in the case of space-rental mobile home or a recreational vehicle park, in the unit located on the property;

(D)(i) It is unlawful for any unauthorized person to enter a residually contaminated property or in the case of a space-rental mobile home or recreational vehicle park the unit located on the property until the Arkansas Department of Environmental Quality establishes that the portion of the property identified as residually contaminated has been properly remediated.

(ii) As used in subdivision (d)(7)(D)(i) of this section, "authorized person" means:

(a) An employee of the Arkansas Department of Environmental Quality;

(b) A law enforcement officer;

(c) The owner of a residually contaminated property; and

(d) A representative of an owner of a residually contaminated property if the representative has signed a waiver of liability;

(E) Failure to comply with § 8-7-1405 is a violation of the department's rules pertaining to the cleanup of laboratories for the manufacture of controlled substances;

(F) Disturbing the notice of removal posted on the property is a violation of the department's rules concerning the cleanup of laboratories for the manufacture of controlled substances; and

(G) The owner of the property is responsible for remediating the residually contaminated portion of the property in compliance with the department's rules concerning the cleanup of laboratories for the manufacture of controlled substances.

CALIFORNIA

NOTICE TO PROPERTY OWNER(s)/USER(s)

- CAL. HEALTH & SAFETY CODE § 25400.18 (West 2008): Within 48 hours after receiving notification from a law enforcement agency of potential contamination of property by a methamphetamine laboratory activity, the local health officer shall post a written notice in a prominent location on the premises of the property. At a minimum, the notice shall include all of the following information:

  (a) The word "WARNING" in large bold type at the top and bottom of the notice.

  (b) A statement that a methamphetamine laboratory was seized on or inside the property or, or in the case of a mobilehome, manufactured home, or recreational vehicle, a statement that a methamphetamine lab was seized on the property, inside the property, or both of those statements.

  (c) The date of the seizure.

  (d) The address or location of the property including the identification of any dwelling unit, room number, apartment number, or mobilehome, manufactured home, or recreational vehicle space number or address, or recreational vehicle identification number.

  (e) The name and contact telephone number of the agency posting the notice on the property.

  (f) A statement specifying that hazardous substances, toxic chemicals, or other hazardous waste products may have been present and may remain on or inside the property.

  (g) A statement that it is unlawful for an unauthorized person to enter the contaminated portion of the property until advised that it is safe to do so by the local health officer or designated local agency.

  (h) A statement that a person disturbing or destroying the posted notice is subject to a civil penalty in an amount of up to five thousand dollars ($5,000).

  (i) A statement that a person violating the posted notice is subject to a civil penalty in an amount of up to five thousand dollars ($5,000).

- CAL. HEALTH & SAFETY CODE §25400.20 (West 2008): (a) Upon completing an inspection pursuant to Section 25400.19, the local health officer shall immediately determine whether the property is contaminated.

(b) If the local health officer determines the property is contaminated, the local health officer shall take the actions specified in Section 25400.22.

(c) If the local health officer determines that the property is not contaminated, within three working days after making that determination, the local health officer shall remove all notices posted pursuant to Section 25400.18 and prepare a written documentation of this determination, which shall include all of the following:

(1) Findings and conclusions.

(2) Name of the property owner, and, if applicable, mailing and street address or space number of the property or vehicle identification number of the recreational vehicle.

(3) Parcel identification number, if applicable.

(d) Within 10 working days after preparing a written documentation of the determination made pursuant to subdivision (c) that the property is not contaminated, the local health officer shall send a copy of the documentation to the property owner, and to the local agency responsible for enforcement of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13).

(e) In the case of a property specified in paragraph (2) of subdivision (t) of Section 25400.11, the local health officer shall, upon completing the inspection pursuant to Section 25400.19, determine the responsibility for the remediation required pursuant to this chapter in accordance with the following:

(1) Except as provided in paragraph (3), if the land on which the mobilehome, manufactured home, or recreational vehicle is located is contaminated, the owner of the mobilehome park or special occupancy park shall be held responsible for compliance with this chapter.

(2) Except as provided in paragraph (3), if the mobilehome, manufactured home, or recreational vehicle is contaminated, the registered owner of the mobilehome, manufactured home, or recreational vehicle shall be held responsible for compliance with this chapter.

(3) If both the land on which the mobilehome, manufactured home, or recreation vehicle is located is contaminated and the mobilehome, manufactured home, or recreational vehicle itself is contaminated, the local health officer shall determine, based on the local health officer's findings and determinations, whether the owner of the mobilehome park or special occupancy park or the registered owner of the mobilehome, manufactured

home, or recreational vehicle, or both, shall be held responsible for compliance with this chapter. The local health officer shall submit a notice to each owner determined to be responsible for remediation, as to the owner's individual responsibility pursuant to this chapter.

(4) If the local health officer makes the determination specified in paragraph (2) or (3), the mobilehome park or special occupancy park manager and the owner of the land on which the mobilehome, manufactured home, or recreational vehicle is located shall also receive a copy of any notice served on the registered owner, lessee, renter, or occupant of the mobilehome, manufactured home, or recreational vehicle.

COLORADO

- COLO. REV. STAT. ANN. § 25-18.5-103 (West 2008): (1)(a) Upon notification from a peace officer that chemicals, equipment, or supplies indicative of an illegal drug laboratory are located on a property, or when an illegal drug laboratory used to manufacture methamphetamine is otherwise discovered and the property owner has received notice, the owner of any contaminated property shall meet the cleanup standards for property established by the board in section 25-18.5-102; except that a property owner may, at his or her option and subject to paragraph (b) of this subsection (1), elect instead to demolish the contaminated property. If the owner elects to demolish the contaminated property, the governing body or, if none has been designated, the health department, building department, or law enforcement agency with jurisdiction over the area where the property is located may require the owner to fence off the property or otherwise make it inaccessible to persons for occupancy or intrusion.

- COLO. REV. STAT. ANN. § 38-35.7-103(1)–(2)(a) (West 2008): (1) A buyer of residential real property has the right to test the property for the purpose of determining whether the property has ever been used as a methamphetamine laboratory.

  (2)(a) Tests conducted pursuant to this section shall be performed by a certified industrial hygienist or industrial hygienist, as those terms are defined in section 24-30-1402, C.R.S. If the buyer's test results indicate that the property has been used a methamphetamine laboratory but has not been remediated to meet the standards established by rules of the state board of health promulgated pursuant to section 25-18.5-102, C.R.S., the buyer shall promptly give written notice to the seller of the results of the tests, and the buyer may terminate the contract.

CONNECTICUT

- NOT FOUND

NOTICE TO PROPERTY OWNER(s)/USER(s)

DELAWARE

- NOT FOUND

FLORIDA

- NOT FOUND

GEORGIA

- NOT FOUND

HAWAII

- HAW. CODE R. § 11-452-25 (Weil 2007): (a) After any laboratory or other equipment and hazardous materials are removed from the methamphetamine manufacturing site, law enforcement personnel shall place a warning in a conspicuous location on the site to any potential visitors, licensees or trespassers to the site, that the methamphetamine manufacturing site may pose a health hazard.

  (b) The chief law enforcement officer shall notify the owner of the property that the property was utilized as a methamphetamine manufacturing site.

  (c) Upon receiving notice from the chief law enforcement officer, the owner of the property shall contact the hazard evaluation and emergency response office within seventy-two (72) hours.

IDAHO

- IDAHO CODE ANN. § 6-2605 (2008): Following the adoption of rules pursuant to Section 6-2604, Idaho Code, and using a format established by the department, a law enforcement agency, upon locating chemicals, equipment, supplies or immediate precursors indicative of a clandestine drug laboratory on a residential property, shall notify the residential property owner and the department.

- IDAHO ADMIN. CODE r. § 16.02.24.110 (2008): Once a property has been identified as a clandestine drug laboratory, the law enforcement agency having jurisdiction is responsible for initiating notification to the property owner within seventy-two (72) hours using the department-approved form available to law enforcement.

ILLINOIS

- NOT FOUND

INDIANA

- NOT FOUND

NOTICE TO PROPERTY OWNER(s)/USER(s)

IOWA

- NOT FOUND

KANSAS

- NOT FOUND

KENTUCKY

- KY. REV. STAT. ANN. § 224.01-410(9) (West 2007) (as amended by HB 765): (9) When a state or local law enforcement agency investigates an inhabitable property that it has reason to believe has been used as a clandestine methamphetamine drug lab, the state or local law enforcement agency shall, at the request of the state or local health department under its respective authority pursuant to KRS Chapter 211 or 212, post a methamphetamine contamination notice on each exterior door of the inhabitable property, except that in the case of a multifamily housing unit it shall post the notice on each entrance door to the individual unit. The Department for Public Health shall promulgate administrative regulations establishing the notice requirements and the process for removing the notice from inhabitable properties. Any homeowner listed on the deed of the dwelling may request an administrative hearing pursuant to KRS Chapter 13B to determine whether the methamphetamine contamination notice is proper by filing a request for appeal with the Department for Public Health within thirty (30) days of the methamphetamine contamination notice having been posted on the property. The responding state or local law enforcement agency shall, within three (3) business days of when the notice is posted, report it by fax or e-mail to the local health department.

LOUISIANA

- NOT FOUND

MAINE

- NOT FOUND

MARYLAND

- NOT FOUND

MASSACHUSETTS

- NOT FOUND

MICHIGAN

- NOT FOUND

NOTICE TO PROPERTY OWNER(s)/USER(s)

MINNESOTA
- NOT FOUND

MISSISSIPPI
- NOT FOUND

MISSOURI
- NOT FOUND

MONTANA
- NOT FOUND

NEBRASKA
- NEB REV. STAT. § 71-2432 (2007): A property owner with knowledge of a clandestine drug lab on his or her property shall report such knowledge and location as soon as practicable to the local law enforcement agency or to the Nebraska State Patrol. A law enforcement agency that discovers a clandestine drug lab in the State of Nebraska shall report the location of such lab to the Nebraska State Patrol within thirty days after making such discovery. Such report shall include the date of discovery of such lab, the county where the property containing such lab is located, and a legal description of the property or other description or address of such property sufficient to clearly establish its location. As soon as practicable after such discovery, the appropriate law enforcement agency shall provide the Nebraska State Patrol with a complete list of the chemicals, including methamphetamine, its precursors, solvents, and related reagents, found at or removed from the location of such lab. Upon receipt, the Nebraska State Patrol shall promptly forward a copy of such report and list to the department, the Department of Environmental Quality, the municipality or county where the lab is located, the director of the local public health department serving such municipality or county, and the property owner or owners.

NEVADA
- NOT FOUND

NEW HAMPSHIRE
- NOT FOUND

NEW JERSEY
- NOT FOUND

NEW MEXICO

NOTICE TO PROPERTY OWNER(s)/USER(s)

- N.M. CODE R. § 20.4.5.10 (Weil 2008): A. Upon identification of a clandestine drug laboratory by a law enforcement agency where chemicals and equipment were removed or residual contamination was observed, the agency shall take the following actions.

  (1) Post a notice of contamination in a conspicuous place at the clandestine drug laboratory.

  (2) Deliver a copy of the notice of contamination to the owner of the property if the owner is on the site at the time of delivery, the on-site manager if the manager is on the site at the time of delivery or the on-site drop box if available. In the case of a tenant-owned unit in a space rental mobile home or recreational vehicle park, the agency shall deliver a copy of the notice of removal to the occupant of the unit if the occupant is on site at the time of delivery and to the on-site park landlord if the park landlord is on site at the time of delivery.

  (3) Document proof of posting the notice of contamination, which proof of posting shall be considered notice to the owner if the owner of the clandestine drug laboratory cannot be identified.

  (4) Deliver a copy of the notice of contamination to the department's hazardous waste bureau chief within seven days after identification of the clandestine drug laboratory. The law enforcement agency shall inform the department whether or not the agency was able to personally deliver the notice to the owner or on-site manager of the property.

  B. Upon receiving a copy of the notice of contamination from a law enforcement agency, the department shall send a copy of the notice of contamination by certified mail, return receipt requested, to the owner at the owner's last known address contained in records of the county assessor where the clandestine drug laboratory is located if the owner of the clandestine drug laboratory or, if the clandestine drug laboratory is a mobile home or recreational vehicle, the owner of a mobile home or recreational vehicle space-rental or space-purchase park where the clandestine drug laboratory may be located, is not personally provided a copy of the notice of contamination pursuant to Subsection A of this section. Proof of mailing shall be considered notice to the owner. The owner is presumed to have received the notice of contamination five days after the notice is mailed.

- N.M. CODE R. § 20.4.5.11 (Weil 2008): The notice of contamination required by 20.4.5.10 NMAC shall contain the following in both English and Spanish or other appropriate tribal language.

  A. The word 'warning' in large bold type at the top and bottom of the notice.

B. A statement that a clandestine drug laboratory was identified at the property.

C. The date of the identification.

D. The address or location of the property where the clandestine drug laboratory was identified. A description of the residually contaminated portion of the property, including a structure, room, apartment or unit number if not the entire or a vehicle registration or vehicle identification number if appropriate.

E. The name of the law enforcement agency that identified the clandestine drug laboratory and that agency's telephone number.

F. A statement that hazardous substances, toxic chemicals, or other residual contamination from operation of the clandestine drug laboratory may still be present.

G. A statement that a person other than the owner or the owner's agent may not enter, occupy, or use the clandestine drug laboratory property or otherwise knowingly and intentionally violate the provisions of the notice of contamination until remediation of the residually contaminated portion of the property has taken place in accordance with 20.4.5.16 NMAC and such remediation has been approved by the department.

H. A statement that a person may not knowingly and intentionally disturb the notice of contamination posted at the clandestine drug laboratory.

I. A statement that the owner of the property shall remediate the residually contaminated portion of the property in compliance with 20.4.5.16 NMAC.

J. A statement that until remediation is complete, the owner or the owner's agent shall not sell, lease, rent, loan, assign, exchange, or otherwise transfer the residually contaminated portion of the property without providing notice of its existence as required by 20.4.5.13 NMAC.

K. A statement that failure of the owner to comply with the requirements of this part may result in a fine of up to $10,000 per day pursuant to Section 74-4-12 NMSA 1978, and is a petty misdemeanor pursuant to Section 74-1-10 NMSA 1978.

L. Contact information for the department.

NEW YORK

- NOT FOUND

NOTICE TO PROPERTY OWNER(s)/USER(s)

NORTH CAROLINA

- 10A N.C. ADMIN. CODE 41D.0101(d) (West 2008): (d) When law enforcement officials have posted a notice on property signifying that the property had been used as a clandestine methamphetamine laboratory, the law enforcement officials shall immediately notify the local health department of the presence of the laboratory. The local health department shall immediately inform the property owner of record or his agent that the property has been used as a methamphetamine laboratory, inform him that the property must be vacated, and inform him of the requirement placed upon a responsible party to remediate the property in accordance with these rules prior to the property being reoccupied.

NORTH DAKOTA

- NOT FOUND

OHIO

- NOT FOUND

OKLAHOMA

- NOT FOUND

OREGON

- OR. REV. STAT. ANN. § 453.876(4)-(5) (2007): (4) If a determination that property is not fit for use is made under subsection (1) of this section, a local government or the state may provide notice that the real property has been determined to be an illegal drug manufacturing site and not fit for use to:

  (a) A person in each residence located within 300 feet of the real property if the real property is located within an urban growth boundary; or

  (b) A person in each residence located within one quarter mile of the real property if the real property is not located within an urban growth boundary.

  (5) The notice described in subsection (4) of this section shall be in writing and shall include:

  (a) The address of the real property that is determined to be not fit for use;

(b) A statement that the determination is subject to appeal and that the real property may be determined to be fit for use if the appeal is successful or if the real property is certified as decontaminated;

(c) The telephone number of the office of the Department of Human Services that is responsible for overseeing the decontamination of illegal drug manufacturing sites; and

(d) The website for the Department of Human Services office responsible for overseeing the decontamination of illegal drug manufacturing sites that contains information on the dangers associated with real property that has been used as an illegal drug manufacturing site.

- OR. REV. STAT. ANN. § 90.425 (22) (2007): (a) If an official or agency referred to in ORS 453.876 notifies the landlord that the official or agency has determined that all or part of the premises is unfit for use as a result of the presence of an illegal drug manufacturing site involving methamphetamine, and the landlord complies with this subsection, the landlord is not required to comply with subsections (1) to (21) and (23) to (26) of this section with regard to personal property left on the portion of the premises that the official or agency has determined to be unfit for use.

  (b) Upon receiving notice from an official or agency determining the premises to be unfit for use, the landlord shall promptly give written notice to the tenant as provided in subsection (3) of this section. The landlord shall also attach a copy of the notice in a secure manner to the main entrance of the dwelling unit. The notice to the tenant shall include a copy of the official's or agency's notice and state:

  (A) That the premises, or a portion of the premises, has been determined by an official or agency to be unfit for use due to contamination from the manufacture of methamphetamine and that as a result subsections (1) to (21) and (23) to (26) of this section do not apply to personal property left on any portion of the premises determined to be unfit for use;

  (B) That the landlord has hired, or will hire, a contractor to assess the level of contamination of the site and to decontaminate the site;

  (C) That upon hiring the contractor, the landlord will provide to the tenant the name, address and telephone number of the contractor; and

  (D) That the tenant may contact the contractor to determine whether any of the tenant's personal property may be removed from the premises or may be decontaminated at the tenant's expense and then removed.

- OR. ADMIN. R. § 333-040-0050(3) & (4) (2008): (3) An agency determining property unfit for use shall proceed as follows:

  (a) Notify the owner or agent of the affected property by personal service or by certified mail sent within 3 working days of the determination. Proof of such mailing shall be considered service. Proof of actual delivery is not required. Where the owner of record or the title or certificate holder is not listed in public records or cannot be reasonably notified, service of notice on the registered agent or other designated agent is sufficient;

  (b) Mail a copy of the notice to the owner/agent as required in subsection (3)(a) of this rule to the Division. The Division shall notify the State Building Codes Division, the Department of Motor Vehicles, the State Marine Board and/or other affected agencies.

  (c) Post a standard warning notice provided by the Division at all entrances to the contaminated property at the time of the determination. Such notice(s) shall be displayed continuously until a Certificate of Fitness has been issued by the Division.

  (4) The notice required in subsection (3)(a) of this rule shall include all of the specific information in the sample notice available from the Division, but need not be identical in form. This notice shall also include a statement that the owner may obtain a hearing by making a written request to the agency making the determination within 30 days.

PENNSYLVANIA
- NOT FOUND

RHODE ISLAND
- NOT FOUND

SOUTH CAROLINA
- NOT FOUND

SOUTH DAKOTA
- NOT FOUND

TENNESSEE
- TENN. CODE ANN. § 68-212-503 (West 2008): (a) The purpose of the quarantine provided for in this section is to prevent exposure of any person to the hazards associated with methamphetamine and the chemicals associated with the manufacture of methamphetamine.

(b) Any property, or any structure or room in any structure on any property wherein the manufacture of a controlled substance listed in § 39-17-408(d)(2) is occurring or has occurred, may be quarantined by the local law enforcement agency where such property is located. The law enforcement agency which quarantines the property shall be responsible for posting signs indicating that the property has been quarantined and, to the extent they can be reasonably identified, for notifying all parties having any right, title or interest in the quarantined property, including any lienholders.

(c)(1) Any person who has an interest in property quarantined pursuant to this section may file a petition in the general sessions, criminal, circuit or chancery court of the county in which the property is located. Such a petition shall be for the purpose of requesting that the court order the quarantine of such property be lifted for one (1) of the following reasons:

(A) That the property was wrongfully quarantined; or

(B) That the property has been properly cleaned, all hazardous materials removed and that it is now safe for human use but the law enforcement agency who imposed the quarantine refuses to lift it.

(2) The court shall take such proof as it deems necessary to rule upon a petition filed pursuant to this section and, after hearing such proof, may grant the petition and lift the quarantine or deny the petition and keep the quarantine in place.

(d) It is prohibited for any person to inhabit quarantined property, to offer such property to the public for temporary or indefinite habitation, or to remove any signs or notices of the quarantine. Any person who willfully violates this subsection (d) commits a Class B misdemeanor.

TEXAS

- NOT FOUND

UTAH

- UTAH CODE ANN. § 19-6-905 (West 2008): (1)(a) If the local health department determines a property is contaminated, it shall notify the owner of record that the property has been placed on the contamination list and shall provide to the owner information regarding remediation options and the requirements necessary to clean up the property, obtain certification that the property is decontaminated, and remove the property from the contamination list.

(b) The notification shall include a deadline for the owner to provide to the local health department information on how the owner plans to address the contamination.

(c) This part does not require that decontamination be conducted by a certified decontamination specialist. However, upon completion of the decontamination, the property must be determined to be decontaminated in accordance with Subsection 19-6-903(4)(c) in order to be removed from the contamination list.

(2) If the local health department does not receive a response from the owner of record within the time period specified in the notice, or the owner of record advises the local health department that the owner does not intend to take action or that the reported property will be abandoned, the local health department shall notify the municipality in which the reported property is located, or the county, if the location is in an unincorporated area, of the owner of record's response or lack of response.

VERMONT

- NOT FOUND

VIRGINIA

- NOT FOUND

WASHINGTON

- WASH. REV. CODE ANN. § 64.44.030 (West 2008): (1) If after the inspection of the property, the local health officer finds that it is contaminated, then the local health officer shall issue an order declaring the property unfit and prohibiting its use. The local health officer shall cause the order to be served either personally or by certified mail, with return receipt requested, upon all occupants and persons having any interest therein as shown upon the records of the auditor's office of the county in which such property is located. The local health officer shall also cause the order to be posted in a conspicuous place on the property. If the whereabouts of such persons is unknown and the same cannot be ascertained by the local health officer in the exercise of reasonable diligence, and the health officer makes an affidavit to that effect, then the serving of the order upon such persons may be made either by personal service or by mailing a copy of the order by certified mail, postage prepaid, return receipt requested, to each person at the address appearing on the last equalized tax assessment roll of the county where the property is located or at the address known to the county assessor, and the order shall be posted conspicuously at the residence. A copy of the order shall also be mailed, addressed to each person or party having a recorded right, title, estate, lien, or interest in the property. The order shall contain a notice that a hearing before the local health board or officer shall be held upon the request of a person required to be notified of the order under this

section. The request for a hearing must be made within ten days of serving the order. The hearing shall then be held within not less than twenty days nor more than thirty days after the serving of the order. The officer shall prohibit use as long as the property is found to be contaminated. A copy of the order shall also be filed with the auditor of the county in which the property is located, where the order pertains to real property, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. In any hearing concerning whether property is fit for use, the property owner has the burden of showing that the property is decontaminated or fit for use. The owner or any person having an interest in the property may file an appeal on any order issued by the local health board or officer within thirty days from the date of service of the order with the appeals commission established pursuant to RCW 35.80.030. All proceedings before the appeals commission, including any subsequent appeals to superior court, shall be governed by the procedures established in chapter 35.80 RCW.

(2) If the local health officer determines immediate action is necessary to protect public health, safety, or the environment, the officer may issue or cause to be issued an emergency order, and any person to whom such an order is directed shall comply immediately. Emergency orders issued pursuant to this section shall expire no later than seventy-two hours after issuance and shall not impair the health officer from seeking an order under subsection (1) of this section.

- WASH. ADMIN. CODE § 246-205-520 (2008): (1) Within one working day of notification from a law enforcement agency of potential contamination, the local health officer shall post a written warning on the premises. The warning shall inform potential occupants that hazardous chemicals may exist on, or have been removed from the property and that entry is unsafe.

  (2) Within fourteen days of notification, the local health officer shall inspect the property.

  (3) If the property is contaminated, the local health officer shall post a written notice on the premises declaring that the officer intends to issue an order prohibiting use of the property as long as the property is contaminated.

  (4) Within ten working days of determining the property is contaminated, the local health officer shall cause to be served an order prohibiting use as required under WAC 246-205-560.

  (5) Within one working day of issuance of the order, the local health officer shall post the order in a conspicuous place on the property.

NOTICE TO PROPERTY OWNER(s)/USER(s)

- WASH. ADMIN. CODE § 246-205-560 (2008): (1) Within ten working days after the local health officer's determination that a property is contaminated, the local health officer shall cause to be served, either personally or by certified mail, return receipt requested, an order prohibiting use to all known:

  (a) Occupants; and

  (b) Persons having an interest in the property as shown upon the records of the auditor's office of the county in which the property is located.

  (2) If the whereabouts of persons described under subsection (1) of this section is unknown and the same cannot be ascertained by the local health officer in the exercise of reasonable diligence, and the health officer makes an affidavit to that effect, then the serving of the order upon such persons may be made by:

  (a) Personal service; or

  (b) Mailing a copy of the order by certified mail, postage prepaid, return receipt requested:

  (i) To each person at the address appearing on the last equalized tax assessment roll of the county where the property is located; or

  (ii) At the address known to the county assessor.

  (3) The local health officer shall also mail a copy of the order addressed to each person or party having a recorded right, title, estate, lien, or interest in the property.

  (4) The local health officer's order shall:

  (a) Describe the local health officer's intended course of action;

  (b) Describe the penalties for noncompliance with the order;

  (c) Prohibit use of all or portions of the property as long as the property is contaminated;

  (d) Describe what measures a property owner must take to have the property decontaminated; and

  (e) Indicate the potential health risks involved.

(5) The local health officer shall:

(a) File a copy of the order prohibiting use of the property with the county auditor;

(b) Provide a copy of the order to the local building or code enforcement department; and

(c) Post the order in a conspicuous place on the property within one working day of issuance of the order.

(6) The local health officer's order shall advise that:

(a) A hearing before the local health officer or local health board shall be held upon the request of a person required to be notified of the order;

(b) The person's request for a hearing shall be made within ten days of the local health officer's serving of the order;

(c) The hearing shall be held not less than twenty days nor more than thirty days after the serving of the order; and

(d) In any hearing concerning whether property is contaminated, the property owner has the burden of showing that the property is decontaminated and meets the decontamination standards of WAC 246-205-541.

WEST VIRGINIA

- W. VA. CODE ANN. § 60A-11-4 (West 2008): Any law-enforcement agency, upon locating chemicals, equipment, supplies or precursors indicative of a clandestine drug laboratory on residential property, shall notify the residential property owner and the department in a manner prescribed by the legislative rule authorized by this article.

- W. VA. CODE R. § 64-92-5.1. (2008): 5.1. The law enforcement agency responsible for the seizure of a clandestine drug laboratory shall:

  5.1.a. Notify the residential property owner within twenty four hours of the seizure;

  5.1.b. Notify the department within twenty four hours of the seizure providing name and mailing address of property owner and physical location of the seized property; and

  5.1.c. Provide the department with a manifest of all chemical substances removed from the residential property following the seizure within forty eight hours of the seizure.

NOTICE TO PROPERTY OWNER(s)/USER(s)

WISCONSIN

- NOT FOUND

WYOMING

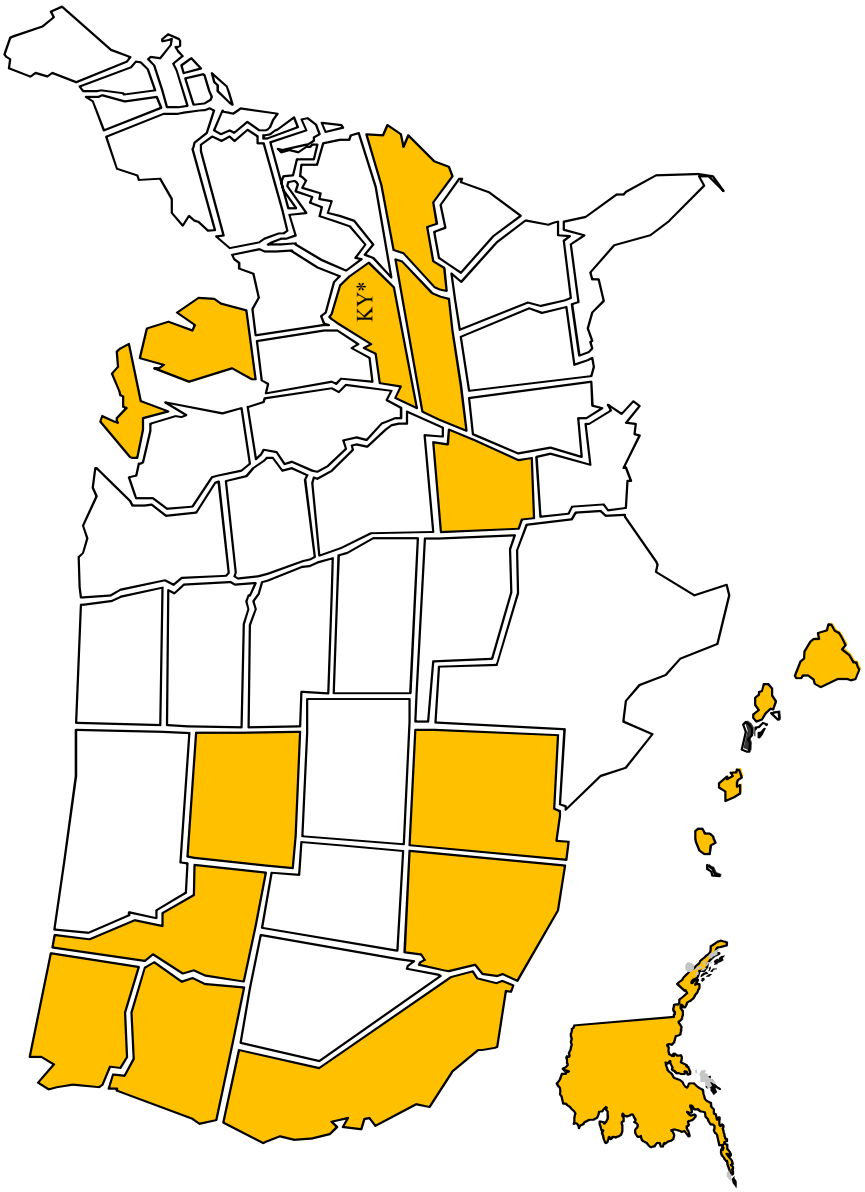
- WYO. STAT. ANN. § 35-9-159(d) (2008): (d) Notwithstanding any other provision of this act, if a local law enforcement agency acting as an emergency responder does not find an immediate and substantial threat to public health when responding to a clandestine laboratory operation incident the local law enforcement agency discovering the clandestine laboratory operation shall provide written notice of the discovery to the owner of the property…

POSTING

"Posting" refers to the process in which a state agency, typically state or local law enforcement members, the state health department or state environment department, or other such first responder(s) is required to cause a sign to be conspicuously posted on a property or vehicle to alert the public that the property or vehicle has been identified as a clandestine drug laboratory or contaminated as a result of the illegal manufacture of controlled substances.

Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

STATES WITH STATUTES, REGULATIONS OR GUIDELINES THAT REQIRE NOTICE OF CONTAMINATION TO BE POSTED ON THE PROPERTY



*Kentucky House Bill 765, signed by the Governor on April 24, 2008, directs the Department for Public Health to promulgate administrative regulations establishing notice requirements and a process for removing the notice from inhabitable properties.

POSTING

ALABAMA

- NOT FOUND

ALASKA

- ALASKA STAT. § 46.03.500(d) (2008): (d) The notice required under (a) of this section for the occupants and users of the property shall be accomplished by immediate posting of the property with a notice that includes the location of the property, the information described in (b)(2) and (3) of this section, and a statement that the property may pose a substantial risk of physical harm to persons who occupy or use the property. For purposes of posting of the notice to the occupants and users of the property required by this subsection, the posting shall be made, for property that is

  (1) a single family dwelling, at the main entryway of the property; and

  (2) other than a single family dwelling and for a hotel, motel, public inn, or similar place of public accommodation that provides lodging, at the door of the unit that is the site that constitutes the illegal drug manufacturing site.

ARIZONA

- ARIZ. REV. STAT. ANN. § 12-1000(A)(4) (2008): A. If a peace officer discovers a clandestine drug laboratory or arrests a person for having on any real property chemicals or equipment used in manufacturing methamphetamine, ecstasy or LSD or a derivative of methamphetamine, ecstasy or LSD, the peace officer:

  4. After the peace officer removes all persons pursuant to paragraph 3 of this subsection, shall affix the notice of removal in a conspicuous place on the real property or, in the case of a space rental mobile home or recreational vehicle park, on the unit located on the real property. The notice of removal shall state that it is unlawful for any person other than the owner, landlord or manager to enter the residually contaminated portion of the property until the owner remediates the residually contaminated portion of the property.

ARKANSAS

- ARK. CODE ANN. § 8-7-1405 (c)(2) (West 2007): (c)(2) After the law enforcement officer removes all persons under subdivision (c)(1) of this section, the law enforcement officer shall affix the notice of removal required under subsection (d) of this section in a conspicuous place on the property or in the case of a space-rental mobile home or a recreational vehicle park on the unit located on the property.

CALIFORNIA

POSTING

- CAL. HEALTH & SAFETY CODE § 25400.18 (West 2008): Within 48 hours after receiving notification from a law enforcement agency of potential contamination of property by a methamphetamine laboratory activity, the local health officer shall post a written notice in a prominent location on the premises of the property. At a minimum, the notice shall include all of the following information:

  (a) The word "WARNING" in large bold type at the top and bottom of the notice.

  (b) A statement that a methamphetamine laboratory was seized on or inside the property or, or in the case of a mobilehome, manufactured home, or recreational vehicle, a statement that a methamphetamine lab was seized on the property, inside the property, or both of those statements.

  (c) The date of the seizure.

  (d) The address or location of the property including the identification of any dwelling unit, room number, apartment number, or mobilehome, manufactured home, or recreational vehicle space number or address, or recreational vehicle identification number.

  (e) The name and contact telephone number of the agency posting the notice on the property.

  (f) A statement specifying that hazardous substances, toxic chemicals, or other hazardous waste products may have been present and may remain on or inside the property.

  (g) A statement that it is unlawful for an unauthorized person to enter the contaminated portion of the property until advised that it is safe to do so by the local health officer or designated local agency.

  (h) A statement that a person disturbing or destroying the posted notice is subject to a civil penalty in an amount of up to five thousand dollars ($5,000).

  (i) A statement that a person violating the posted notice is subject to a civil penalty in an amount of up to five thousand dollars ($5,000).

COLORADO

- NOT FOUND

CONNECTICUT

POSTING

- NOT FOUND

DELAWARE
- NOT FOUND

FLORIDA
- NOT FOUND

GEORGIA
- NOT FOUND

HAWAII
- HAW. CODE R. § 11-452-25 (Weil 2007): (a) After any laboratory or other equipment and hazardous materials are removed from the methamphetamine manufacturing site, law enforcement personnel shall place a warning in a conspicuous location on the site to any potential visitors, licensees or trespassers to the site, that the methamphetamine manufacturing site may pose a health hazard.

  (b) The chief law enforcement officer shall notify the owner of the property that the property was utilized as a methamphetamine manufacturing site.

  (c) Upon receiving notification from the chief law enforcement officer, the owner of the property shall contact the hazard evaluation and emergency response office within seventy-two (72) hours.

IDAHO
- IDAHO ADMIN. CODE r. § 16.02.24.100 (2008): In accordance with Section 6-2605, Idaho Code, the law enforcement agency having jurisdiction is responsible for posting a property with a sign stating that it has been identified as a clandestine drug laboratory.

ILLINOIS
- NOT FOUND

INDIANA
- NOT FOUND

IOWA
- NOT FOUND

KANSAS

POSTING

- NOT FOUND

KENTUCKY

- KY. REV. STAT. ANN. § 224.01-410(9) (West 2007) (as amended by HB 765): (9) When a state or local law enforcement agency investigates an inhabitable property that it has reason to believe has been used as a clandestine methamphetamine drug lab, the state or local law enforcement agency shall, at the request of the state or local health department under its respective authority pursuant to KRS Chapter 211 or 212, post a methamphetamine contamination notice on each exterior door of the inhabitable property, except that in the case of a multifamily housing unit it shall post the notice on each entrance door to the individual unit. The Department for Public Health shall promulgate administrative regulations establishing the notice requirements and the process for removing the notice from inhabitable properties. Any homeowner listed on the deed of the dwelling may request an administrative hearing pursuant to KRS Chapter 13B to determine whether the methamphetamine contamination notice is proper by filing a request for appeal with the Department for Public Health within thirty (30) days of the methamphetamine contamination notice having been posted on the property. The responding state or local law enforcement agency shall, within three (3) business days of when the notice is posted, report it by fax or e-mail to the local health department.

LOUISIANA

- NOT FOUND

MAINE

- NOT FOUND

MARYLAND

- NOT FOUND

MASSACHUSETTS

- NOT FOUND

MICHIGAN

- MICH. COMP. LAWS ANN. § 333.12103(3) (West 2007): (3) Within 48 hours of discovering an illegal drug manufacturing site, a state or local law enforcement agency shall notify the local health department and the department of community health regarding the potential contamination of any property or dwelling that is or has been the site of illegal drug manufacturing. <u>The state or local law enforcement agency shall post a written warning on the premises stating that potential contamination exists and may constitute a hazard to the health or safety of those who may occupy the premises</u>…

- MICH. COMP. LAWS ANN. § 125.485a(1) (West 2008): Within 48 hours of discovering an illegal drug manufacturing site, a state or local law enforcement agency shall notify the local health department and the department of community health regarding the potential contamination of any property or dwelling that is or has been the site of illegal drug manufacturing. The state or local law enforcement agency shall post a written warning on the premises stating that potential contamination exists and may constitute a hazard to the health or safety of those who may occupy the premises.

MINNESOTA
- NOT FOUND

MISSISSIPPI
- NOT FOUND

MISSOURI
- NOT FOUND

MONTANA
- NOT FOUND

NEBRASKA
- NOT FOUND

NEVADA
- NOT FOUND

NEW HAMPSHIRE
- NOT FOUND

NEW JERSEY
- NOT FOUND

NEW MEXICO
- N.M. CODE R. § 20.4.5.10(A)(1) (Weil 2008): A. Upon identification of a clandestine drug laboratory by a law enforcement agency where chemicals and equipment were removed or residual contamination was observed, the agency shall take the following actions.

(1) Post a notice of contamination in a conspicuous place at the clandestine drug laboratory.

NEW YORK

- NOT FOUND

NORTH CAROLINA

- 10A N.C. ADMIN. CODE 41D.0101(d) (West 2008): (d) When law enforcement officials have posted a notice on property signifying that the property had been used as a clandestine methamphetamine laboratory, the law enforcement officials shall immediately notify the local health department of the presence of the laboratory. The local health department shall immediately inform the property owner of record or his agent that the property has been used as a methamphetamine laboratory, inform him that the property must be vacated, and inform him of the requirement placed upon a responsible party to remediate the property in accordance with these rules prior to the property being reoccupied.

NORTH DAKOTA

- NOT FOUND

OHIO

- NOT FOUND

OKLAHOMA

- NOT FOUND

OREGON

- OR. ADMIN. R. § 333-040-0050(3) & (4) (2008): (3) An agency determining property unfit for use shall proceed as follows:

  (a) Notify the owner or agent of the affected property by personal service or by certified mail sent within 3 working days of the determination. Proof of such mailing shall be considered service. Proof of actual delivery is not required. Where the owner of record or the title or certificate holder is not listed in public records or cannot be reasonably notified, service of notice on the registered agent or other designated agent is sufficient;

  (b) Mail a copy of the notice to the owner/agent as required in subsection (3)(a) of this rule to the Division. The Division shall notify the State Building Codes Division, the Department of Motor Vehicles, the State Marine Board and/or other affected agencies.

(c) Post a standard warning notice provided by the Division at all entrances to the contaminated property at the time of the determination. Such notice(s) shall be displayed continuously until a Certificate of Fitness has been issued by the Division.

(4) The notice required in subsection (3)(a) of this rule shall include all of the specific information in the sample notice available from the Division, but need not be identical in form. This notice shall also include a statement that the owner may obtain a hearing by making a written request to the agency making the determination within 30 days.

PENNSYLVANIA

- NOT FOUND

RHODE ISLAND

- NOT FOUND

SOUTH CAROLINA

- NOT FOUND

SOUTH DAKOTA

- NOT FOUND

TENNESSEE

- TENN. CODE ANN. § 68-212-503 (West 2008): (a) The purpose of the quarantine provided for in this section is to prevent exposure of any person to the hazards associated with methamphetamine and the chemicals associated with the manufacture of methamphetamine.

  (b) Any property, or any structure or room in any structure on any property wherein the manufacture of a controlled substance listed in § 39-17-408(d)(2) is occurring or has occurred, may be quarantined by the local law enforcement agency where such property is located. The law enforcement agency which quarantines the property shall be responsible for posting signs indicating that the property has been quarantined and, to the extent they can be reasonably identified, for notifying all parties having any right, title or interest in the quarantined property, including any lienholders.

  (c)(1) Any person who has an interest in property quarantined pursuant to this section may file a petition in the general sessions, criminal, circuit or chancery court of the county in which the property is located. Such a petition shall be for the purpose of requesting that the court order the quarantine of such property be lifted for one (1) of the following reasons:

(A) That the property was wrongfully quarantined; or

(B) That the property has been properly cleaned, all hazardous materials removed and that it is now safe for human use but the law enforcement agency who imposed the quarantine refuses to lift it.

(2) The court shall take such proof as it deems necessary to rule upon a petition filed pursuant to this section and, after hearing such proof, may grant the petition and lift the quarantine or deny the petition and keep the quarantine in place.

(d) It is prohibited for any person to inhabit quarantined property, to offer such property to the public for temporary or indefinite habitation, or to remove any signs or notices of the quarantine. Any person who willfully violates this subsection (d) commits a Class B misdemeanor.

TEXAS

- NOT FOUND

UTAH

- NOT FOUND

VERMONT

- NOT FOUND

VIRGINIA

- NOT FOUND

WASHINGTON

- WASH. REV. CODE ANN. § 64.44.020 (West 2008): Whenever a law enforcement agency becomes aware that property has been contaminated by hazardous chemicals, that agency shall report the contamination to the local health officer. The local health officer shall cause a posting of a written warning on the premises within one working day of notification of the contamination and shall inspect the property within fourteen days after receiving the notice of contamination. The warning posting for any property that includes a hotel or motel holding a current license under RCW 70.62.220, shall be limited to inside the room or on the door of the contaminated room and no written warning posting shall be posted in the lobby of the facility. The warning shall inform the potential occupants that hazardous chemicals may exist on, or have been removed from, the premises and that entry is unsafe. If a property owner believes that a tenant has

contaminated property that was being leased or rented, and the property is vacated or abandoned, then the property owner shall contact the local health officer about the possible contamination. Local health officers or boards may charge property owners reasonable fees for inspections of suspected contaminated property requested by property owners.

A local health officer may enter, inspect, and survey at reasonable times any properties for which there are reasonable grounds to believe that the property has become contaminated. If the property is contaminated, the local health officer shall post a written notice declaring that the officer intends to issue an order prohibiting use of the property as long as the property is contaminated.

If access to the property is denied, a local health officer in consultation with law enforcement may seek a warrant for the purpose of conducting administrative inspections. A superior, district, or municipal court within the jurisdiction of the property may, based upon probable cause that the property is contaminated, issue warrants for the purpose of conducting administrative inspections.

Local health officers must report all cases of contaminated property to the state department of health. The department may make the list of contaminated properties available to health associations, landlord and realtor organizations, prosecutors, and other interested groups. The department shall promptly update the list of contaminated properties to remove those which have been decontaminated according to provisions of this chapter.

The local health officer may determine when the services of an authorized contractor are necessary.

- WASH. REV. CODE ANN. § 64.44.030 (2008): (1) If after the inspection of the property, the local health officer finds that it is contaminated, then the local health officer shall issue an order declaring the property unfit and prohibiting its use. The local health officer shall cause the order to be served either personally or by certified mail, with return receipt requested, upon all occupants and persons having any interest therein as shown upon the records of the auditor's office of the county in which such property is located. The local health officer shall also cause the order to be posted in a conspicuous place on the property…

- WASH. ADMIN. CODE § 246-205-520 (2008): (1) Within one working day of notification from a law enforcement agency of potential contamination, the local health officer shall post a written warning on the premises. The warning shall inform potential occupants that

hazardous chemicals may exist on, or have been removed from the property and that entry is unsafe.

(2) Within fourteen days of notification, the local health officer shall inspect the property.

(3) If the property is contaminated, the local health officer shall post a written notice on the premises declaring that the officer intends to issue an order prohibiting use of the property as long as the property is contaminated.

(4) Within ten working days of determining the property is contaminated, the local health officer shall cause to be served an order prohibiting use as required under WAC 246-205-560.

(5) Within one working day of issuance of the order, the local health officer shall post the order in a conspicuous place on the property.

WEST VIRGINIA

- NOT FOUND

WISCONSIN

- NOT FOUND

WYOMING

- WYO. STAT. ANN. § 35-9-156 (2008): (a) Every political subdivision of the state shall designate a local emergency response authority for responding to and reporting of hazardous material or weapons of mass destruction incidents that occur within its jurisdiction. The designation of a local emergency response authority and copies of any accompanying agreements and other pertinent documentation created pursuant to this section shall be filed with the director, office of homeland security within seven (7) days of the agreement being reduced to writing and signed by all appropriate persons.

  (b) Every local emergency response authority shall coordinate the response to an incident occurring within its jurisdiction in a fashion consistent with standard incident command protocols. The local emergency response authority shall also coordinate the response to an incident which initially occurs within its jurisdiction but which spreads to another jurisdiction. If an incident occurs on a boundary between two (2) jurisdictions or in an area not readily ascertainable, the first local emergency response authority arriving at the scene shall coordinate the initial emergency response and shall be responsible for seeking reimbursement for the incident on behalf of all responding authorities entitled to reimbursement under W.S. 35-9-157(a).

(c) Any unusual incident involving hazardous materials or weapons of mass destruction and any incident involving a clandestine laboratory operation shall be investigated to determine if a criminal act has occurred until it is determined otherwise. To ensure preservation of evidence while mitigating the threat to life and property under this subsection, a command structure with primary command authority by the appropriate law enforcement agency shall be implemented.

(d) The incident commander shall declare an incident ended when he has determined the threat to public health and safety has ended. Until the incident commander has declared the threat to public safety has ended the incident commander shall have the authority to issue an order on behalf of the political subdivision that any portion of the building, structure or land is uninhabitable, secure the portion of the building, structure or land that is uninhabitable and take appropriate steps to minimize exposure to identified or suspected contamination at the site or premise. If the subject of the site or premise is commercial real estate, the incident commander shall limit the declaration of uninhabitable to the areas affected by the clandestine laboratory operation and shall not declare the entire commercial real estate uninhabitable unless the entire commercial property has been documented and determined uninhabitable using the standards promulgated by the state emergency response commission under W.S. 35-9-153(h). The incident commander shall provide written notice to the commercial real estate owner, describing with specificity the extent of the commercial property deemed uninhabitable. Any property that is ordered uninhabitable under this subsection shall only be transferred or sold prior to remediation if full, written disclosure is made to the prospective purchaser, attached to the earnest money receipt if any, and shall accompany the sale documents but not be a part of the deed nor shall it be recorded. The transferor or seller shall notify the incident commander of the transfer or sale within ten (10) days of the transfer or sale.

(e) The order issued under subsection (d) of this section shall be in writing, shall state the grounds for the order and shall be filed in the office of the clerk of the district court of the county in which the building or structure is situated. A copy of the order shall be served in accordance with the Wyoming Rules of Civil Procedure upon the owner and any occupants of the building or structure with a written notice that the order has been filed and shall remain in force, unless the owner or occupant files his objections or answer with the clerk of the district court within the time specified in subsection (f) of this section. <u>A copy of the order shall be posted in a conspicuous place upon the building or structure.</u>

(f) Within twenty (20) days of service of an order issued under subsection (d) of this section, the owner or occupant may file with the clerk of the district court and serve upon

the political subdivision issuing the order, an answer denying the existence of any of the allegations in the order. If no answer is filed and served, the court shall affirm the order declaring the site uninhabitable and fix a time when the order shall be enforced. If an answer is filed and served, the court shall hear and determine the issues raised as set forth in subsection (g) of this section.

(g) The court shall hold a hearing within eleven (11) days from the date of the filing of the answer. If the court sustains the order, the court shall fix a time within which the order shall be enforced. Otherwise, the court shall annul or set aside the order declaring the property to be uninhabitable.

(h) An appeal from the judgment of the district court may be taken by any party to the proceeding in accordance with the Wyoming Rules of Appellate Procedure.

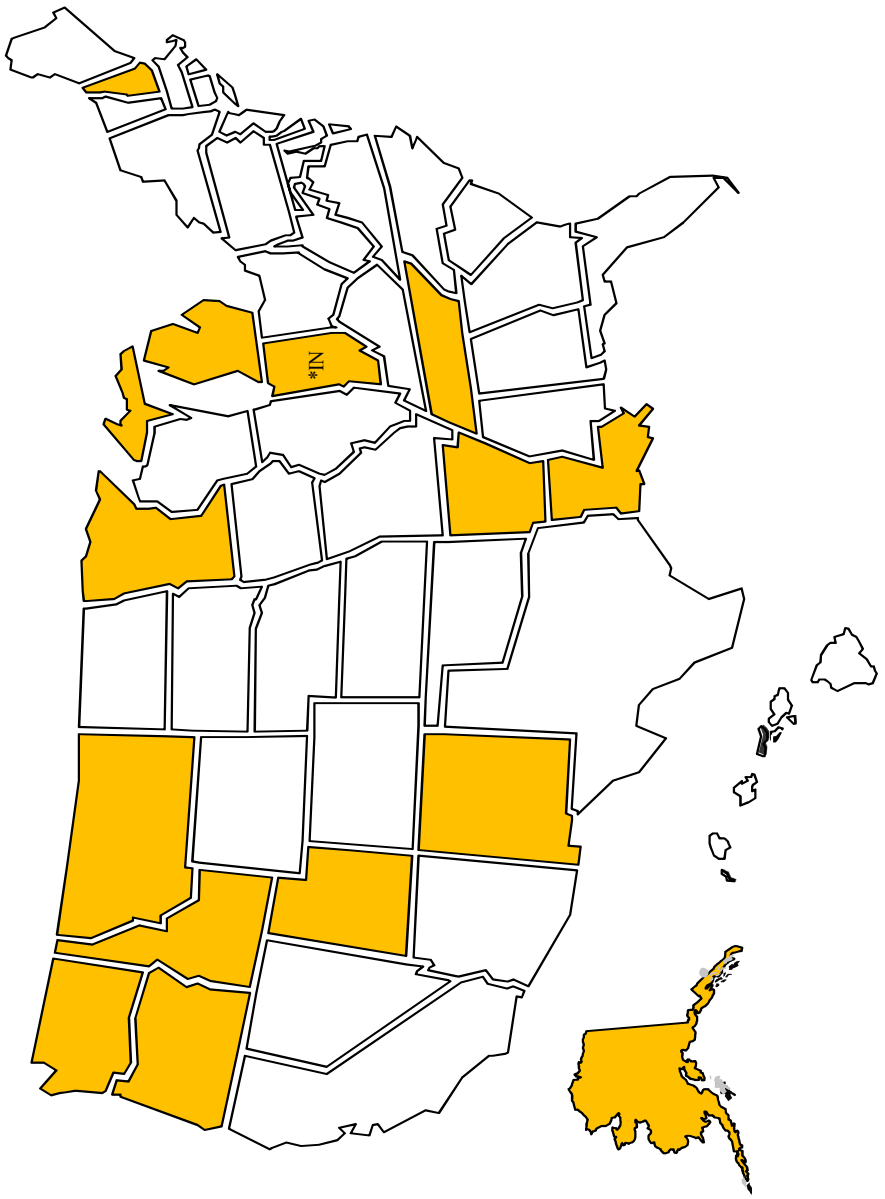
PUBLICALLY ACCESSIBLE PROPERTY REGISTRY/DATABASE & REMOVAL OF PROPERTY FROM PUBLICALLY ACCESSIBLE REGISTRY/DATABASE

In their efforts to maintain the health, safety and welfare of their citizens while also making it possible for citizens to make informed decisions regarding real estate transactions, states have become concerned with assuring that members of the public can easily identify whether a property or vehicle has been contaminated as a result of illegal drug manufacturing. As a result, a number of states have mandated the creation of registries or databases that list properties that have been drug manufacturing sites, that are accessible to the public via the internet or in hard copy upon request. If a state's registry or database is accessible via the internet, the internet site will be identified in a footnote.

Some states require that a listed property be removed from the registry or database upon verification that the property has been decontaminated and remediated according to state standards. It is important to note that this timeline varies widely from state to state. In some states, removal is not instantaneous, even if the property is determined to be remediated to established state standards. In other states, however, the property is immediately removed from the registry/database upon receipt by the appropriate state authority of documentation of the completed remediation.

Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

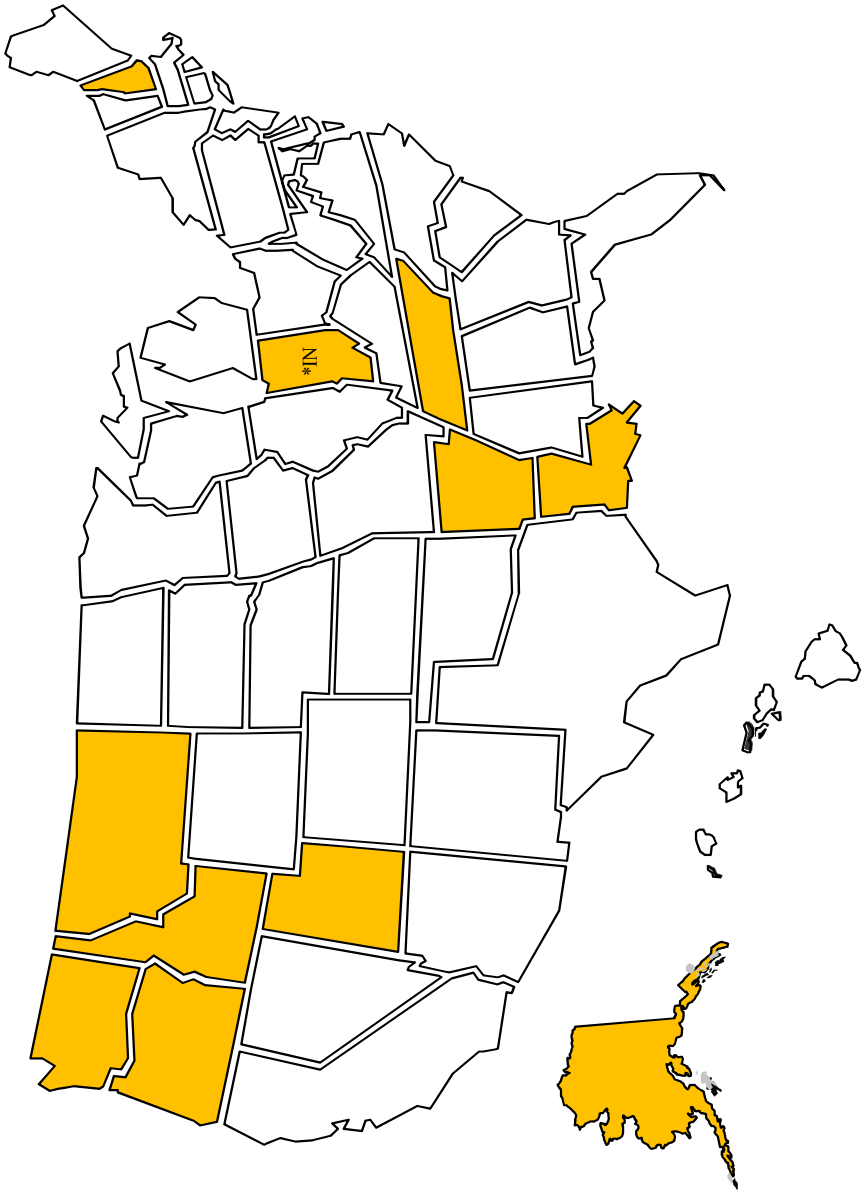
STATES WITH A PUBLICALLY ACCESSIBLE PROPERTY REGISTRY OR DATABASE



* To date, the Indiana general assembly has not specifically made any appropriations to the institute to establish, maintain, and operate a web site containing a list of properties that have been used as the site of a methamphetamine laboratory.

Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

STATES THAT PROVIDE FOR REMOVAL FROM A PUBLICALLY ACCESSIBLE REGISTRY OR DATABASE



* To date, the Indiana general assembly has not specifically made any appropriations to the institute to establish, maintain, and operate a web site containing a list of properties that have been used as the site of a methamphetamine laboratory.

PUBLICALLY ACCESSIBLE PROPERTY REGISTRY/DATABASE & REMOVAL OF PROPERTY FROM PUBLICALLY ACCESSIBLE REGISTRY/DATABASE

ALABAMA

- NOT FOUND

ALASKA[24]

Publically Accessible Property Registry/Database

- ALASKA STAT. § 46.03.500(f) (2008): (f) The department shall maintain on its Internet website a list of all properties for which a notice has been issued under (a) of this section. For each of those properties, the list must contain the parcel identification number, legal description, and physical address and owner's name at the time the notice was issued.

- ALASKA STAT. § 46.03.550 (2008): (a) Property for which a notice has been issued under AS 46.03.500 shall be determined by the department to be fit for use if the owner certifies to the department under penalty of unsworn falsification in the second degree that:

  (1) based on sampling and testing procedures established by the department under AS 46.03.520(b) and performed by laboratories that are on the list maintained by the department under AS 46.03.520(c), the limits on substances specified in regulations adopted under AS 46.03.530 are not exceeded on the property;

  (2) if the property was ever sampled and tested under AS 46.03.520 and the test results showed the property to be unfit for use under AS 46.03.530, decontamination procedures were performed in accordance with the guidelines established under AS 46.03.540(b) and the requirements of (1) of this subsection have been met; or

  (3) a court has held that the determination that the property was an illegal drug manufacturing site was not made in compliance with AS 46.03.500(a).

  (b) The department shall maintain a list of properties for which the department has received notice under AS 46.03.500(c). When the department determines under (a) of this section that a property on the list is fit for use, the department shall note on the list maintained on its Internet website under AS 46.03.500(f), and on any other list or database it maintains related to illegal drug manufacturing sites, that the property is fit for use and shall notify the owner of the property that the property is fit for use. The property shall remain on the lists or databases for five years after it is determined that the property is fit for use and shall be removed from the lists or databases within three

[24] A list of Alaska properties for which a notice of contamination has been issued can be found at http://www.dec.state.ak.us/spar/perp/methlab/methlab_listing.htm.

months after the five-year period has elapsed. On request, the department shall give a copy of the list maintained under this section to any person who requests the list.

Removal of Property from Publically Accessible Property Registry/Database

- ALASKA STAT. § 46.03.550(b) (2008): (b) The department shall maintain a list of properties for which the department has received notice under AS 46.03.500(c). When the department determines under (a) of this section that a property on the list is fit for use, the department shall note on the list maintained on its Internet website under AS 46.03.500(f), and on any other list or database it maintains related to illegal drug manufacturing sites, that the property is fit for use and shall notify the owner of the property that the property is fit for use. The property shall remain on the lists or databases for five years after it is determined that the property is fit for use and shall be removed from the lists or databases within three months after the five-year period has elapsed. On request, the department shall give a copy of the list maintained under this section to any person who requests the list.

ARIZONA

- NOT FOUND

ARKANSAS[25]

Publically Accessible Property Registry/Database

- ARK. CODE ANN. § 8-7-1404 (West 2007): (a) By May 1, 2008, the Arkansas Department of Environmental Quality shall maintain records concerning properties contaminated through the manufacture of controlled substances.

  (b) The department shall:

  (1) Create a list of properties contaminated through the manufacture of controlled substances;

  (2) Place a contaminated property on the contaminated properties list;

  (3) Not determine that a property has been adequately remediated unless:

  (A)(i) The inspection, sampling, remediation, and removal of contaminated materials is performed by or under the direction and responsible charge of an individual who has

[25] A list of properties for which the Arkansas Department of Environmental Quality has received notice under AS 46.03.500(c) can be found at http://www.adeq.state.ar.us/hazwaste/branch_programs/clcc_list.asp.

obtained a certification under the rules established by the Arkansas Pollution Control and Ecology Commission under this subchapter.

(ii) The inspection, sampling, remediation, and removal of contaminated materials is performed by an employee of a public agency that has the responsibility of regulatory enforcement, emergency response, the protection of public health and welfare, or the protection of the environment while the employee is acting in the course of that employment; and

(B) The property has met the remediation standards developed by the department;

(4)(A) Post the results of a cleanup on the department's website for ten (10) working days after the department determines that the property has been adequately remediated.

(B) After the ten (10) working days of posting required under subdivision (b)(4)(A) of this section, the department shall remove from the department's website the formerly contaminated property and the results of the cleanup; and

(5) Remove a property from the list when the department finds that the property has been adequately remediated.

(c)(1) The department shall make the list of properties contaminated through the manufacture of controlled substances available to law enforcement officials and to the public:

(A) On the department's website; and

(B) In hard copy upon request to the department.

(2) The department shall keep hard copies of the information required under this section until the department has removed the property from the list of properties contaminated through the manufacture of controlled substances.

Removal of Property from Publically Accessible Property Registry/Database

- ARK. CODE ANN. § 8-7-1404 (West 2007); (a) By May 1, 2008, the Arkansas Department of Environmental Quality shall maintain records concerning properties contaminated through the manufacture of controlled substances.

(b) The department shall:

PUBLICALLY ACCESSIBLE PROPERTY REGISTRY/DATABASE & REMOVAL OF PROPERTY FROM PUBLICALLY ACCESSIBLE REGISTRY/DATABASE

(1) Create a list of properties contaminated through the manufacture of controlled substances;

(2) Place a contaminated property on the contaminated properties list;

(3) Not determine that a property has been adequately remediated unless:

(A)(i) The inspection, sampling, remediation, and removal of contaminated materials is performed by or under the direction and responsible charge of an individual who has obtained a certification under the rules established by the Arkansas Pollution Control and Ecology Commission under this subchapter.

(ii) The inspection, sampling, remediation, and removal of contaminated materials is performed by an employee of a public agency that has the responsibility of regulatory enforcement, emergency response, the protection of public health and welfare, or the protection of the environment while the employee is acting in the course of that employment; and

(B) The property has met the remediation standards developed by the department;

(4)(A) Post the results of a cleanup on the department's website for ten (10) working days after the department determines that the property has been adequately remediated.

(B) After the ten (10) working days of posting required under subdivision (b)(4)(A) of this section, the department shall remove from the department's website the formerly contaminated property and the results of the cleanup; and

(5) Remove a property from the list when the department finds that the property has been adequately remediated.

(c)(1) The department shall make the list of properties contaminated through the manufacture of controlled substances available to law enforcement officials and to the public:

(A) On the department's website; and

(B) In hard copy upon request to the department.

(2) The department shall keep hard copies of the information required under this section until the department has removed the property from the list of properties contaminated through the manufacture of controlled substances.

- ARK. CODE ANN. § 8-7-1406 (West 2007): (a) After property contaminated through the manufacture of controlled substances is remediated and the property owner receives official notification from the Arkansas Department of Environmental Quality, no person, including the property owner, landlord, and real estate agent, is required to report or otherwise disclose the past contamination.

  (b) Unless retention is mandated by federal law, the department shall destroy all copies of information required to be kept under this subchapter that refer to a specific property location once the property is officially removed from the contaminated property list.

CALIFORNIA

- NOT FOUND

COLORADO

Publically Accessible Property Registry/Database

- NOT FOUND

Removal of Property from Publically Accessible Property Registry/Database

- COLO. REV. STAT. ANN. § 38-35.7-103(4) (West 2008): If the seller becomes aware that the property was once used for the production of methamphetamine and the property was remediated in accordance with the standards established pursuant to section 25-18.5-102, C.R.S., and evidence of such remediation was received by the applicable governing body in compliance with the documentation requirements established pursuant to section 25-18.5-102, C.R.S., then the seller shall not be required to disclose that the property was used as a methamphetamine laboratory to a buyer, and the property shall be removed from any government-sponsored informational service listing properties that have been used for the production of methamphetamine.

CONNECTICUT

- NOT FOUND

DELAWARE

- NOT FOUND

PUBLICALLY ACCESSIBLE PROPERTY REGISTRY/DATABASE & REMOVAL OF PROPERTY FROM PUBLICALLY ACCESSIBLE REGISTRY/DATABASE

FLORIDA

- NOT FOUND

GEORGIA

- NOT FOUND

HAWAII

- NOT FOUND

IDAHO[26]

Publically Accessible Property Registry/Database

- IDAHO ADMIN. CODE r. § 16.02.24.120.01 (2008): 01. Listing a Property. Upon notification by a law enforcement agency, using the department approved from, the department will place the property on a Clandestine Drug Laboratory Site Property List. No property may be listed unless the reporting law enforcement agency certifies, on the approved form, that it is more likely than not that the property has been contaminated through use as a clandestine laboratory. The list will be publicly available online at: http://www.healthy.idaho.gov.

- IDAHO ADMIN. CODE r. § 16.02.24.120.03 (2008): 03. Voluntary Compliance. When a property owner voluntarily reports his property as a clandestine drug laboratory, the property will be placed on the Clandestine Drug Laboratory Property Site List and will be delisted when the requirements of these rules are met. This action will afford the property owner immunity from civil actions as provided in Section 6-2608, Idaho Code.

Removal of Property from Publically Accessible Property Registry/Database

- IDAHO ADMIN. CODE r. § 16.02.24.003 (2008): 01. Administrative Appeals. Administrative Appeals are governed by provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings".

  02. Appeal of Property Listing. The certification by the reporting law enforcement agency that it is more likely than not that the property has been contaminated through use as a clandestine drug laboratory is prima facia evidence for listing the property on the Clandestine Drug Laboratory Site Property List.

[26] The Idaho Clandestine Drug Laboratory Site Property List can be found at http://www.healthandwelfare.idaho.gov/DesktopModules/DocumentsSortable/DocumentsSrtView.aspx?tabID=0&ItemID=4629&MId=10572&wversion=Staging.

PUBLICALLY ACCESSIBLE PROPERTY REGISTRY/DATABASE & REMOVAL OF PROPERTY FROM PUBLICALLY ACCESSIBLE REGISTRY/DATABASE

(a) Property Owner's Right to Appeal. The property owner listed on the Clandestine Drug Laboratory Site Property List may appeal the listing by filing a written request for hearing with the Administrative Procedures Section, 10th Floor, 450 West State Street, P.O. Box 83720, Boise, ID 83720-0036, within twenty-eight (28) days of the mailing of the notification by the law enforcement agency.

(b) Burden of Proof. The burden of proof is on the property owner to show, by a preponderance of evidence, that the property has not been contaminated through use as a clandestine drug laboratory.

- IDAHO ADMIN. CODE r. § 16.02.24.120.02 to 120.03 (2008): 02. Delisting a Property. When a property is determined by a qualified industrial hygienist to meet the cleanup standard set forth by the department in these rules, or the property owner submits documentation establishing that the property has been fully and lawfully demolished, the department will issue the property owner a certificate of delisting. The certificate will include the date the property was listed as a clandestine drug laboratory site and the date the property was delisted.

  03. Voluntary Compliance. When a property owner voluntarily reports his property as a clandestine drug laboratory, the property will be placed on the Clandestine Drug Laboratory Property Site List and will be delisted when the requirements of these rules are met. This action will afford the property owner immunity from civil actions as provided in Section 6-2608, Idaho Code.

- IDAHO ADMIN. CODE r. § 16.02.24.600 (2008): In order for a property to be delisted, the property owner must provide the department with an original or certified copy of the final report from the qualified industrial hygienist. The final report must include at least the following information:

  01. Property Description. The property description including physical street address (apartment or motel number, if applicable), city, zip code, legal description, ownership, and number and type of structures present.

  02. Documentation of Clearance Sampling Procedures. Documentation of sampling procedures in accordance with the requirements under Section 400 of these rules.

  03. Laboratory Results. Analytical results from a laboratory as specified in Section 400 of these rules.

04. Qualifications of the Qualified Industrial Hygienist. Qualified industrial hygienist statement of qualifications, including professional certification or documentation.

05. Signed Certification Statement. A signed certification statement as stating: "I certify that the cleanup standard established by the Idaho Department of Health and Welfare has been met as evidenced by testing I conducted."

06. Demolition Documentation. If the property owner chooses to demolish the property, documentation must be provided to the Department showing that the structure was completely and lawfully demolished and disposed of in compliance with local, state and federal laws and regulations.

ILLINOIS

- NOT FOUND

INDIANA[27]

Publically Accessible Property Registry/Database

- IND. CODE ANN. § 5-2-6-19 (West 2008): Sec. 19. (a) As used in this section, "institute" refers to the Indiana criminal justice institute established by section 3 of this chapter.

  (b) As used in this section, "property" refers to a structure or part of a structure that is used as a home, residence, or sleeping unit.

  (c) Subject to specific appropriation by the general assembly, the institute shall establish, maintain, and operate a web site containing a list of properties that have been used as the site of a methamphetamine laboratory. The list of properties shall be based on information received from a law enforcement agency under IC 5-2-15-3.

  (d) Subject to specific appropriation by the general assembly and in accordance with subsections (h) and (i), the institute shall publish the list of properties that have been used as the site of a methamphetamine laboratory on a web site maintained by the institute. The institute shall design the web site to enable a user to easily determine whether a particular property has been used as the site of a methamphetamine laboratory. The web site shall be referred to as the "methamphetamine laboratory web site".

[27] To date, the Indiana general assembly has not made any specific appropriations to the Indiana Criminal Justice Institute to establish, maintain, and operate a web site containing a list of properties that have been used as the site of a methamphetamine laboratory.

PUBLICALLY ACCESSIBLE PROPERTY REGISTRY/DATABASE & REMOVAL OF PROPERTY FROM PUBLICALLY ACCESSIBLE REGISTRY/DATABASE

(e) The institute shall remove a listed property from the web site after the property has been certified as decontaminated by an inspector approved under IC 13-14-1-15 or not more than two (2) years after the date the methamphetamine laboratory was seized by a law enforcement agency.

(f) Notwithstanding subsection (c), if property has been certified as decontaminated by an inspector approved under IC 13-14-1-15 before it is placed on the list required under subsection (c), the institute may not place the property on the list.

(g) Records concerning a listed property that has been removed from the web site under subsection (e) are confidential.

(h) This subsection only applies to a rental unit (as defined in IC 32-31-3-8). The institute may not list a rental unit that has been used as the site of a methamphetamine laboratory on the web site until the later of the following:

(1) Thirty (30) days after the date on which the institute receives information from a law enforcement agency under IC 5-2-15-3 that the rental unit has been the site of a methamphetamine laboratory, if the owner or operator of the rental property has not provided documentation to the institute showing:

(A) that the property has been inspected by a person certified to inspect property that is polluted by a contaminant under IC 13-14-1-15; and

(B) that the owner or operator has begun the process of decontaminating the property.

(2) If the owner or operator of the rental unit provides the documentation described in subdivision (1)(A) and (1)(B) not later than thirty (30) days after the date on which the institute receives information from a law enforcement agency under IC 5-2-15-3 that the rental unit has been the site of a methamphetamine laboratory, one hundred eighty (180) days after the date on which the institute receives information from a law enforcement agency that the rental unit has been the site of a methamphetamine laboratory.

However, if the owner or operator provides documentation to the institute within the appropriate time period described in subdivision (1) or (2) that a person authorized to inspect property that is polluted by a contaminant under IC 13-14-1-15 has certified that the property is decontaminated or was not contaminated by a methamphetamine laboratory, the institute may not list the property on the web site.

(i) This subsection only applies to a rental unit (as defined in IC 32-31-3-8). The institute shall remove a rental unit listed on the web site not more than five (5) days after receiving documentation from the owner or operator of the rental property that:

(1) the property has been inspected by a person certified to inspect property that is polluted by a contaminant under IC 13-14-1-15; and

(2) that the owner or operator has begun the process of decontaminating the property.

The institute shall relist the rental unit on the web site not less than one hundred fifty (150) days after receiving documentation described in subdivisions (1) and (2), unless the owner or operator of the rental property provides documentation to the institute that a person authorized to inspect property that is polluted by a contaminant under IC 13-14-1-15 has certified that the property is decontaminated or was not contaminated by a methamphetamine laboratory.

Removal of Property from Publically Accessible Property Registry/Database

- IND. CODE ANN. § 5-2-6-19(e), (g), (i) (West 2008): (e) The institute shall remove a listed property from the web site after the property has been certified as decontaminated by an inspector approved under IC 13-14-1-15 or not more than two (2) years after the date the methamphetamine laboratory was seized by a law enforcement agency.

  (g) Records concerning a listed property that has been removed from the web site under subsection (e) are confidential.

  (i) This subsection only applies to a rental unit (as defined in IC 32-13-3-8). The institute shall remove a rental unit listed on the website not more than five (5) days after receiving documentation from the owner or operator of the rental property that:

  (1) the property has been inspected by a person certified to inspect property that is polluted by a contaminant under IC 13-14-1-15; and

  (2) that the owner or operator has begun the process of decontaminating the property.

  The institute shall relist the rental unit on the web site not less than one hundred fifty (150) days after receiving documentation in subdivisions (1) and (2), unless the owner or operator of the rental property provides documentation to the institute that a person authorized to inspect property that is polluted by a contaminant under IC 13-14-1-15 has

certified that the property is decontaminated or was not contaminated by a methamphetamine laboratory.

IOWA

- NOT FOUND

KANSAS

- NOT FOUND

KENTUCKY

- NOT FOUND

LOUISIANA

Publically Accessible Property Registry/Database

- LA. REV. STAT. ANN. §9:3198.1(B) (2008) (as amended by 2008 S.B. 801): B. The department shall maintain a listing of residential real property that has been reported as contaminated, and the list shall be made available to the public through a website.

Removal of Property from Publically Accessible Property Registry/Database

- LA. REV. STAT. ANN. §9:3198.1(E) (2008) (as amended by 2008 S.B. 801): E. Upon confirmation by the department that property has been properly remediated to its established standards, the department shall remove the property from the list required in Subsection B of this Section. The department shall provide written notification to the local sheriff and the property owner of record when the documentation shows that the property has been properly remediated.

MAINE

- NOT FOUND

MARYLAND

- NOT FOUND

MASSACHUSETTS

- NOT FOUND

MICHIGAN[28]

[28] A listing of the location of methamphetamine laboratory sites located in Michigan can be found at http://www.michigan.gov/mdch/0,1607,7-132-2945_5105-158567--,00.html.

PUBLICALLY ACCESSIBLE PROPERTY REGISTRY/DATABASE & REMOVAL OF PROPERTY FROM PUBLICALLY ACCESSIBLE REGISTRY/DATABASE

Publically Accessible Property Registry/Database

- MICH. COMP. LAWS ANN. § 333.26372 (West 2008): The department of state police shall transmit to the department of community health information obtained under the methamphetamine reporting act regarding the discovery of any methamphetamine laboratory in this state. The department of community health, upon receiving that information, shall post on its internet website the location of the methamphetamine laboratory and the name of the law enforcement agency or other agency that reported the existence of the methamphetamine laboratory.

- MICH. COMP. LAWS ANN. § 333.26373 (West 2008): The department of community health shall keep the information posted under section 2 current and shall include in that information a statement as to whether or not the remediation of each laboratory site has been completed according to standards established by the department of community health.

Removal of Property from Publically Accessible Property Registry/Database

- NOT FOUND

MINNESOTA

Publically Accessible Property Registry/Database

- MINN. STAT. ANN. § 152.0275, Subd. 2 (l) (West 2008): (l) Each local community health services administrator shall maintain information related to property within the administrator's jurisdiction that is currently or was previously subject to an order issued under paragraph (c). The information maintained must include the name of the owner, the location of the property, the extent of the contamination, the status of the removal and remediation work on the property, and whether the order has been vacated. The administrator shall make this information available to the public either upon request or by other means.

Removal of Property from Publically Accessible Property Registry/Database

- NOT FOUND

MISSISSIPPI

- NOT FOUND

MISSOURI

- NOT FOUND

PUBLICALLY ACCESSIBLE PROPERTY REGISTRY/DATABASE & REMOVAL OF PROPERTY FROM PUBLICALLY ACCESSIBLE REGISTRY/DATABASE

MONTANA[29]

Publically Accessible Property Registry/Database

- MONT. CODE ANN. § 75-10-1306(1) to 1306(3) (2007): (1) Whenever a state or local law enforcement agency becomes aware that an inhabitable property has been contaminated by its use as a clandestine methamphetamine drug lab, the agency shall report the contamination to the department and to the local health officer.

  (2) The department shall maintain a list of inhabitable property that has been reported as contaminated, and the list must be made available to the public through a website except as provided in subsection (3).

  (3) Upon confirmation by the department that an inhabitable property has been properly remediated to the standards established in 75-10-1303 or that the inhabitable property meets the decontamination standards without decontamination, the department shall remove the inhabitable property from the list required in subsection (2). The department shall provide written notification to the local health officer and the property owner of record when the documentation shows that the inhabitable property has been properly assessed or remediated.

Removal of Property from Publically Accessible Property Registry/Database

- MONT. CODE ANN. § 75-10-1306(3) (2007): (3) Upon confirmation by the department that an inhabitable property has been properly remediated to the standards established in 75-10-1303 or that the inhabitable property meets the decontamination standards without decontamination, the department shall remove the inhabitable property from the list required in subsection (2). The department shall provide written notification to the local health officer and the property owner of record when the documentation shows that the inhabitable property has been properly assessed or remediated.

NEBRASKA

- NOT FOUND

NEVADA

- NOT FOUND

NEW HAMPSHIRE

Publically Accessible Property Registry/Database

[29] A list of Montana properties contaminated by use as a clandestine methamphetamine drug laboratory can be found at http://svc.mt.gov/deq/methquery/.

- N.H. REV. STAT. ANN. § 477:4-g.II (2008): The department of environmental services or any licensed environmental or hazardous substances removal specialist shall be responsible for determining that any property on which methamphetamine production has occurred, meets remediation cleanup standards established pursuant to rules adopted by the department under RSA 541-A. Prior to the establishment of rules, the determination shall be based on the best scientific methods available. The determination that the property meets remediation cleanup standards shall be public information available upon request from the department.

Removal of Property from Publically Accessible Property Registry/Database

- NOT FOUND

NEW JERSEY

- NOT FOUND

NEW MEXICO[30]

Publically Accessible Property Registry/Database

- N.M. CODE R. § 20.4.5.14 (Weil 2008): A. The department shall maintain a list of clandestine drug laboratory sites on the department's web site based on information received from law enforcement agencies.

  B. Within ten days of the department notifying the owner of its approval pursuant to Subsection B of 20.4.5.18 NMAC, the department shall indicate on its website whether the property has been remediated in accordance with this part.

Removal of Property from Publically Accessible Property Registry/Database

- NOT FOUND

NEW YORK

- NOT FOUND

NORTH CAROLINA

- NOT FOUND

NORTH DAKOTA

- NOT FOUND

[30] A list of clandestine drug laboratory sites in New Mexico can be found at http://www.cdli.state.nm.us/.

PUBLICALLY ACCESSIBLE PROPERTY REGISTRY/DATABASE & REMOVAL OF PROPERTY FROM PUBLICALLY ACCESSIBLE REGISTRY/DATABASE

OHIO

- NOT FOUND

OKLAHOMA

- NOT FOUND

OREGON[31]

Publically Accessible Property Registry/Database

- OR. REV. STAT. ANN. § 453.879 (2007): When the Director of Human Services or a designee thereof, the State Fire Marshal or designee thereof or any law enforcement agency makes a determination that property subject to ORS 105.555, 431.175 and 453.855 to 453.912 is not fit for use, the Director of Human Services or designee thereof shall notify the Director of the Department of Consumer and Business Services of the determination. The Director of the Department of Consumer and Business Services shall list the property as not fit for use until the Director of the Department of Consumer and Business Services is notified that the property has been certified by the Department of Human Services pursuant to ORS 453.885, or the initial determination is reversed on appeal, or the property is destroyed. Upon receipt of the certificate, the Director of the Department of Consumer and Business Services shall cause the property to be removed from the list described in this section.

- OR. ADMIN. R. § 333-040-0060(1) (2008): (1) The Director of the State Department of Consumer and Business Services shall place the property on an official unfit for use listing after it receives a copy of a notice of determination that a property is unfit for use from the Division, or any owner of record. The State Department of Consumer and Business Services -- Building Codes Division shall update and distribute the list according to their rules.

- OR. ADMIN. R. § 918-010-0005 (2008): (1) There is created an interested parties mailing list, maintained by the division, to receive notices of properties placed on the "Unfit for Use" list.

  (2) Before the adoption, amendment or repeal of this rule, notice will be given to the persons on the interested parties list established according to OAR 918-001-210.

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[31] A listing of Oregon properties that are contaminated and are not fit for use can be found at http://www.cbs.state.or.us/external/bcd/druglabs/druglabs.html#contact.

PUBLICALLY ACCESSIBLE PROPERTY REGISTRY/DATABASE & REMOVAL OF PROPERTY FROM PUBLICALLY ACCESSIBLE REGISTRY/DATABASE

- OR. ADMIN. R. § 918-010-0015(1) to (3) (2008): (1) As required by ORS 453.879, there is created within the Building Codes Division, a registry of property "Unfit For Use".

  (2) The registry shall list property determined as "unfit for use" under ORS 453.876 and under the rules of the Health Division.

  (3) Property declared "unfit for use" shall be listed in the registry only when the Health Division advises the division that action has been taken to declare the property as not fit for use. The listing will show the information provided by the Health Division.

- OR. ADMIN. R. § 918-010-0020 (2008): (1) The registry is a public record open to inspection by the public during normal business hours.

  (2) Copies of documents adding to or removing property from the list will be provided to any person upon request. Persons requesting copies must designate whether the request covers all transactions within the state, only transactions within a particular jurisdiction or a particular transaction:

  (3) Notification of addition to or removal from the list will be provided to the building official with jurisdiction or the local city or county government involved, if there is no building official and the local health department.

Removal of Property from Publically Accessible Property Registry/Database

- OR. REV. STAT. ANN. § 453.879 (2008): When the Director of Human Services or a designee thereof, the State Fire Marshal or designee thereof or any law enforcement agency makes a determination that property subject to ORS 105.555, 431.175 and 453.855 to 453.912 is not fit for use, the Director of Human Services or designee thereof shall notify the Director of the Department of Consumer and Business Services of the determination. The Director of the Department of Consumer and Business Services shall list the property as not fit for use until the Director of the Department of Consumer and Business Services is notified that the property has been certified by the Department of Human Services pursuant to ORS 453.885, or the initial determination is reversed on appeal, or the property is destroyed. Upon receipt of the certificate, the Director of the Department of Consumer and Business Services shall cause the property to be removed from the list described in this section.

- OR. REV. STAT. ANN. § 453.885 (2007): (1) The owner of property determined to be not fit for use under ORS 105.555, 431.175 and 453.855 to 453.912 who desires to have the

property certified as fit for use may use the services of a contractor licensed by the Department of Human Services to decontaminate the property or, upon approval by the department, the owner, or an agent of the owner, may perform the decontamination work. The contractor, in coordination with the owner or agent of the owner, shall prepare and submit a written work plan for decontamination to the department. If the work plan is approved and the decontamination work is completed according to the plan and is properly documented, the department shall certify the property as having been decontaminated in compliance with rules of the department. Upon the completion of the work plan, the department shall require the licensed contractor's affidavit of compliance with the approved work plan.

(2) The property owner shall notify the Director of the Department of Consumer and Business Services of the certification. No person who is not licensed by the Department of Human Services under ORS 105.555, 431.175 and 453.855 to 453.912 shall advertise to undertake or perform the work necessary to decontaminate property determined to be not fit for use under ORS 105.555, 431.175 and 453.855 to 453.912.

(3) Upon receipt of the certificate and a request by the property owner to remove the property from the list, the Director of the Department of Consumer and Business Services shall cause the property to be removed from the list.

- OR. ADMIN. R. § 333-040-0060(2) (2008): (2) To remove a property from the unfit for use list, the owner must provide the Division written proof that:

  (a) The determination that the property is unfit for use has been reversed by the agency that made the initial determination; or

  (b) The determination by the agency that made the initial determination has been reversed by a court of law; or

  (c) A Certificate of Fitness has been issued for the property.

- OR. ADMIN. R. § 918-010-0015(4) (2008): (4) Property listed in the registry will be removed from the registry when:

  (a) The division receives a certificate of fitness from the Health Division;

(b) The division is formally advised by a certified copy of a final court judgment that the initial "unfit for use determination" was reversed on appeal under ORS 453.876, or if the reversal was by administrative action, a certified copy of the final division order; or

(c) The division is provided with confirmed evidence, including proof or an affirmation that all lawful requirements were followed, that the contaminated property has been destroyed.

PENNSYLVANIA

- NOT FOUND

RHODE ISLAND

- NOT FOUND

SOUTH CAROLINA

- NOT FOUND

SOUTH DAKOTA

- NOT FOUND

TENNESSEE[32]

Publically Accessible Property Registry/Database

- TENN. CODE ANN. § 68-212-502 (West 2008): The commissioner shall compile and maintain a list of certified industrial hygienists and such other persons or entities the commissioner certifies as qualified to perform the services of industrial hygienists. Such persons will test properties in which a process intended to result in the manufacture of methamphetamine has occurred, as defined by § 39-17-435, to determine if a property is safe for human use. Such property may include, but is not limited to, leased or rented property such as a hotel or motel room, rented home or apartment, or any residential property. The commissioner shall also compile and maintain a list of persons authorized to perform clean-up of property where such a process has occurred. Such lists may be posted on the website maintained by the commissioner.

- TENN. CODE ANN. § 68-212-509 (West 2008): (a) Within seven (7) days of issuing an order of quarantine, the law enforcement agency that issued the order shall transmit to the commissioner at least the following information regarding the site:

[32] Tennessee's registry of properties under Order of Quarantine can be found online at http://tennessee.gov/environment/dor/pdf/quarantined.pdf.

(1) The date of the quarantine order;

(2) The county;

(3) The address;

(4) The name of the owner of the site; and

(5) A brief description of the site, such as single family home, apartment, motel, wooded area, etc.

(b) The department of environment and conservation shall maintain a registry of all properties reported by a law enforcement agency that have been under order of quarantine for at least sixty (60) days. The registry shall be available for public inspection at the department and shall be posted on its website. Listed properties shall be removed from the registry when a law enforcement agency reports that the quarantine has been lifted in accordance with this part.

Removal of Property from Publically Accessible Property Registry/Database

- TENN. CODE ANN. § 68-212-509(b) (West 2008): (b) The department of environment and conservation shall maintain a registry of all properties reported by a law enforcement agency that have been under order of quarantine for at least sixty (60) days. The registry shall be available for public inspection at the department and shall be posted on its website. Listed properties shall be removed from the registry when a law enforcement agency reports that the quarantine has been lifted in accordance with this part.

TEXAS

- NOT FOUND

UTAH

Publically Accessible Property Registry/Database

- UTAH CODE ANN. § 19-6-903(3)-(4) (West 2008): (3)(a) Upon receipt of a complaint or a report from law enforcement regarding possibly contaminated property, the local health officer or his designee shall determine if reasonable evidence exists that the property is contaminated.

(b) The local health department shall place property considered to be contaminated on a contamination list.

(4) The local health departments shall maintain searchable records of the properties on their contamination lists and shall:

(a) make the records reasonably available to the public;

(b) provide written notification to persons requesting access to the records that the records are only advisory in determining if specific property has been contaminated by clandestine drug lab activity; and

(c) remove the contaminated property from the list when the following conditions have been met:

(i) the local health department has monitored the decontamination process and, after documenting that the test results meet decontamination standards, has authorized the removal of or purging of the contamination information from the department's records; or

(ii) a certified decontamination specialist submits a report to the local health department stating that the property is decontaminated.

Removal of Property from Publically Accessible Property Registry/Database

- UTAH CODE ANN. § 19-6-903(4) (West 2008): (4) The local health departments shall maintain searchable records of the properties on their contamination lists and shall:

  (a) make the records reasonably available to the public;

  (b) provide written notification to persons requesting access to the records that the records are only advisory in determining if specific property has been contaminated by clandestine drug lab activity; and

  (c) remove the contaminated property from the list when the following conditions have been met:

  (i) the local health department has monitored the decontamination process and, after documenting that the test results meet decontamination standards, has authorized the removal of or purging of the contamination information from the department's records; or

(ii) a certified decontamination specialist submits a report to the local health department stating that the property is decontaminated.

- UTAH ADMIN. CODE r. R392-600-3(3) (2008): (3) If the preliminary assessment does not reveal the presence of contamination above the decontamination standards specified in this rule, the decontamination specialist or owner of record may request that the property be removed from the list of contaminated properties as specified in 19-6-903 provided that:

  (a) a final report documenting the preliminary assessment is submitted to the local health department by the owner of record and decontamination specialist if one was involved in conducting the preliminary assessment; and

  (b) the local health department concurs with the recommendations contained in the report specified in (a).

VERMONT

- NOT FOUND

VIRGINIA

- NOT FOUND

WASHINGTON[33]

Publically Accessible Property Registry/Database

- WASH. REV. CODE ANN. § 64.44.020 (West 2008): Local health officers must report all cases of contaminated property to the state department of health. The department may make the list of contaminated properties available to health associations, landlord and realtor organizations, prosecutors, and other interested groups. The department shall promptly update the list of contaminated properties to remove those which have been decontaminated according to provisions of this chapter.

Removal of Property from Publically Accessible Property Registry/Database

- WASH. REV. CODE ANN. § 64.44.020 (West 2008): Whenever a law enforcement agency becomes aware that property has been contaminated by hazardous chemicals, that agency shall report the contamination to the local health officer. The local health officer shall cause a posting of a written warning on the premises within one working day of

[33] The Washington State Department of Health List of Sites Contaminated by Clandestine Drug Labs can be found at http://www.doh.wa.gov/ehp/ts/CDL/cdlsitelist.pdf.

notification of the contamination and shall inspect the property within fourteen days after receiving the notice of contamination. The warning posting for any property that includes a hotel or motel holding a current license under RCW 70.62.220, shall be limited to inside the room or on the door of the contaminated room and no written warning posting shall be posted in the lobby of the facility. The warning shall inform the potential occupants that hazardous chemicals may exist on, or have been removed from, the premises and that entry is unsafe. If a property owner believes that a tenant has contaminated property that was being leased or rented, and the property is vacated or abandoned, then the property owner shall contact the local health officer about the possible contamination. Local health officers or boards may charge property owners reasonable fees for inspections of suspected contaminated property requested by property owners.

A local health officer may enter, inspect, and survey at reasonable times any properties for which there are reasonable grounds to believe that the property has become contaminated. If the property is contaminated, the local health officer shall post a written notice declaring that the officer intends to issue an order prohibiting use of the property as long as the property is contaminated.

If access to the property is denied, a local health officer in consultation with law enforcement may seek a warrant for the purpose of conducting administrative inspections. A superior, district, or municipal court within the jurisdiction of the property may, based upon probable cause that the property is contaminated, issue warrants for the purpose of conducting administrative inspections.

Local health officers must report all cases of contaminated property to the state department of health. The department may make the list of contaminated properties available to health associations, landlord and realtor organizations, prosecutors, and other interested groups. The department shall promptly update the list of contaminated properties to remove those which have been decontaminated according to provisions of this chapter.

The local health officer may determine when the services of an authorized contractor are necessary.

WEST VIRGINIA

- NOT FOUND

WISCONSIN

PUBLICALLY ACCESSIBLE PROPERTY REGISTRY/DATABASE & REMOVAL OF PROPERTY FROM PUBLICALLY ACCESSIBLE REGISTRY/DATABASE

- NOT FOUND

WYOMING

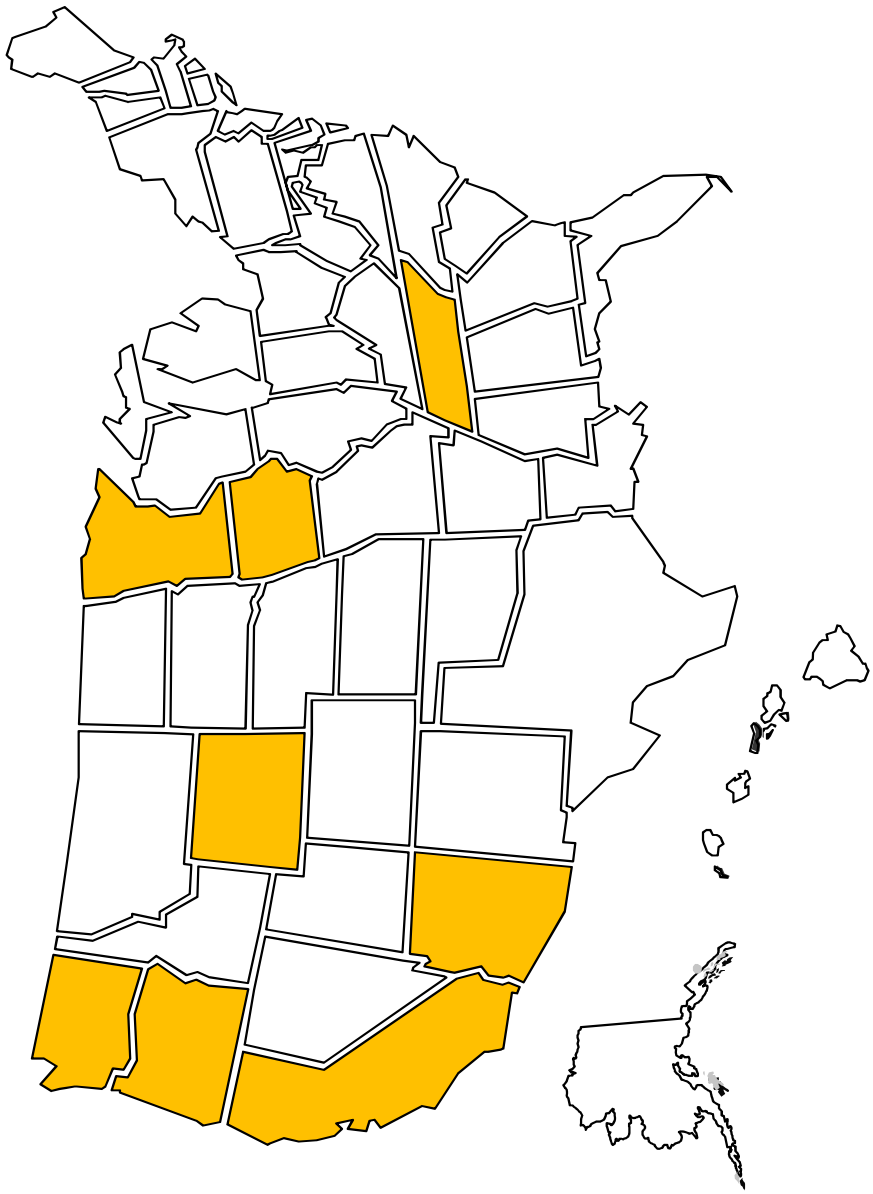
- NOT FOUND

RECORDING OF LIENS OR DOCUMENTS IN PROPERTY RECORDS

Several states require the recording of a lien or similar document that will surface in a title search or other public record search. These recordings typically serve one of two purposes: (1) to provide notice about contaminated properties and/or related remediation efforts; and (2) to allow a political subdivision, or agency to recuperate any costs expended by an agency related to remediating a property where the owner has failed to do so. The reader is encouraged to contact the appropriate state authority regarding the practical application of their procedures since they have legal and financial consequences.

Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

STATES WITH STATUTES, REGULATIONS OR GUIDELINES THAT REQUIRE OR ALLOW RECORDING OF A LIEN OR SIMILAR DOCUMENT



RECORDING OF LIENS OR DOCUMENTS IN PROPERTY RECORDS

ALABAMA

- NOT FOUND

ALASKA

- NOT FOUND

ARIZONA

- ARIZ. REV. STAT. ANN. § 12-1000(C) (2008): (C) The owner of the real property shall remediate the residually contaminated portion of the real property within twelve months after the date of notice of removal by retaining a registered drug laboratory site remediation firm pursuant to title 32, chapter 1. If the owner of the real property fails to remediate the property under this subsection, a county or city in this state may remediate the property using a registered remediation firm contracted by any county or city in this state with the cost of remediation passed on to the property owner in the form of a lien on the property title.

ARKANSAS

- NOT FOUND

CALIFORNIA

- CAL. HEALTH & SAFETY CODE § 25400.22 (West 2008): (a) No later than 10 working days after the date when a local health officer determines that property is contaminated pursuant to subdivision (b) of Section 25400.20, the local health officer shall do all of the following:

  (1) Except as provided in paragraph (2), if the property is real property, record with the county recorder a lien on the property. The lien shall specify all of the following:

  (A) The name of the agency on whose behalf the lien is imposed.

  (B) The date on which the property is determined to be contaminated.

  (C) The legal description of the real property and the assessor's parcel number.

  (D) The record owner of the property.

  (E) The amount of the lien, which shall be the greater of two hundred dollars ($200) or the costs incurred by the local health officer in compliance with this chapter, including, but not limited to, the cost of inspection performed pursuant to Section 25400.19 and the county recorder's fee.

(2)(A) If the property is a mobilehome or manufactured home specified in paragraph (2) of subdivision (t) of Section 25400.11, amend the permanent record with a restraint on the mobilehome, or manufactured home with the Department of Housing and Community Development, in the form prescribed by that department, providing notice of the determination that the property is contaminated.

(B) If the property is a recreational vehicle specified in paragraph (2) of subdivision (t) of Section 25400.11, perfect by filing with the Department of Motor Vehicles a vehicle license stop on the recreational vehicle in the form prescribed by that department, providing notice of the determination that the property is contaminated.

(C) If the property is a mobilehome or manufactured home, not subject to paragraph (2) of subdivision (t) of Section 25400.11, is located on real property, and is not attached to that real property, the local health officer shall record a lien for the real property with the county recorder, and the Department of Housing and Community Development shall amend the permanent record with a restraint for the mobilehome or manufactured home, in the form and with the contents prescribed by that department.

(3) A lien, restraint, or vehicle license stop issued pursuant to paragraph (2) shall specify all of the following:

(A) The name of the agency on whose behalf the lien, restraint, or vehicle license stop is imposed.

(B) The date on which the property is determined to be contaminated.

(C) The legal description of the real property and the assessor's parcel number, and the mailing and street address or space number of the manufactured home, mobilehome, or recreational vehicle or the vehicle identification number of the recreational vehicle, if applicable.

(D) The registered owner of the mobilehome, manufactured home, or recreational vehicle, if applicable, or the name of the owner of the real property as indicated in the official county records.

(E) The amount of the lien, if applicable, which shall be the greater of two hundred dollars ($200) or the costs incurred by the local health officer in compliance with this chapter, including, but not limited to, the cost of inspection performed pursuant to Section 25400.19 and the fee charged by the Department of Housing and Community

Development and the Department of Motor Vehicles pursuant to paragraph (2) of subdivision (b).

(F) Other information required by the county recorder for the lien, the Department of Housing and Community Development for the restraint, or the Department of Motor Vehicles for the vehicle license stop.

(4) Issue to persons specified in subdivisions (d), (e), and (f) an order prohibiting the use or occupancy of the contaminated portions of the property.

(b)(1) The county recorder's fees for recording and indexing documents provided for in this section shall be in the amount specified in Article 5 (commencing with Section 27360) of Chapter 6 of Part 3 of Title 3 of the Government Code.

(2) The Department of Housing and Community Development and the Department of Motor Vehicles may charge a fee to cover its administrative costs for recording and indexing documents provided for in paragraph (2) of subdivision (a).

(c)(1) A lien recorded pursuant to subdivision (a) shall have the force, effect, and priority of a judgment lien. The restraint amending the permanent record pursuant to subdivision (a) shall be displayed on any manufactured home or mobilehome title search until the restraint is released. The vehicle license stop shall remain in effect until it is released.

(2) The local health officer shall not authorize the release of a lien, restraint, or vehicle license stop made pursuant to subdivision (a), until one of the following occurs:

(A) The property owner satisfies the real property lien, or the contamination in the mobilehome, manufactured home, or recreational vehicle is abated to the satisfaction of the local health officer consistent with the notice in the restraint, or vehicle license stop and the local health officer issues a release pursuant to Section 25400.27.

(B) For a manufactured home or mobilehome, the local health officer determines that the unit will be destroyed or permanently salvaged. For the purposes of this paragraph, the unit shall not be reregistered after this determination is made unless the local health officer issues a release pursuant to Section 25400.27.

(C) The lien, restraint, or vehicle license stop is extinguished by a senior lien in a foreclosure sale.

RECORDING OF LIENS OR DOCUMENTS IN PROPERTY RECORDS

(d) Except as otherwise specified in this section, an order issued pursuant to this section shall be served, either personally or by certified mail, return receipt requested in the following manner:

(1) For real property, to all known occupants of the property and to all persons who have an interest in the property, as contained in the records of the recorder's office of the county in which the property is located.

(2) In the case of a mobilehome or manufactured home, the order shall be served to the legal owner, as defined in Section 18005.8, each junior lienholder, as defined in Section 18005.8, and the registered owner, as defined in Section 18005.8.

(3) In the case of a recreational vehicle, the order shall be served on the legal owner, as defined in Section 370 of the Vehicle Code, and the registered owner, as defined in Section 505 of the Vehicle Code.

(e) If the whereabouts of the person described in subdivision (d) are unknown and cannot be ascertained by the local health officer, in the exercise of reasonable diligence, and the local health officer makes an affidavit to that effect, the local health officer shall serve the order by personal service or by mailing a copy of the order by certified mail, postage prepaid, return receipt requested, as follows:

(1) The order related to real property shall be served to each person at the address appearing on the last equalized tax assessment roll of the county where the property is located, and to all occupants of the affected unit.

(2) In the case of a mobilehome or manufactured home, the order shall be served to the legal owner, as defined in Section 18005.8, each junior lienholder, as defined in Section 18005.3, and the registered owner, as defined in Section 18009.5, at the address appearing on the permanent record and all occupants of the affected unit at the mobilehome park space.

(3) In the case of a recreational vehicle, the order shall be served on the legal owner, as defined in Section 370 of the Vehicle Code, and the registered owner, as defined in Section 505 of the Vehicle Code, at the address appearing on the permanent record and all occupants of the affected vehicle at the mobilehome park or special occupancy park space.

(f)(1) The local health officer shall also mail a copy of the order required by this section to the address of each person or party having a recorded right, title, estate, lien, or interest

in the property and to the association of a common interest development, as defined in Section 1351 of the Civil Code.

(2) In addition to the requirements of paragraph (1), if the affected property is a mobilehome, manufactured home, or recreational vehicle, specified in paragraph (2) of subdivision (t) of Section 25400.11, the order issued by the local health officer shall also be served, either personally or by certified mail, return receipt requested, to the owner of the mobilehome park or special occupancy park.

(g) The order issued pursuant to this section shall include all of the following information:

(1) A description of the property.

(2) The parcel identification number, address, or space number, if applicable.

(3) The vehicle identification number, if applicable.

(4) A description of the local health officer's intended course of action.

(5) A specification of the penalties for noncompliance with the order.

(6) A prohibition on the use of all or portions of the property that are contaminated.

(7) A description of the measures the property owner is required to take to decontaminate the property.

(8) An indication of the potential health hazards involved.

(9) A statement that a property owner who fails to provide a notice or disclosure that is required by this chapter is subject to a civil penalty of up to five thousand dollars ($5,000).

(h) The local health officer shall provide a copy of the order to the local building or code enforcement agency or other appropriate agency responsible for the enforcement of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13).

(i) The local health officer shall post the order in a conspicuous place on the property within one working day of the date that the order is issued.

RECORDING OF LIENS OR DOCUMENTS IN PROPERTY RECORDS

- CAL. HEALTH & SAFETY CODE § 25400.30 (West 2008): If a property owner does not initiate or complete the remediation of property in compliance with an order issued by a local health officer pursuant to this chapter, the city or county in which the property is located may, at its discretion, take action to remediate the contaminated or residually contaminated portion of the property pursuant to this chapter or may seek a court order to require the property owner to remediate the property in compliance with this chapter.

  (2) Before a city or county takes an action pursuant to subdivision (a) regarding property specified in paragraph (2) of subdivision (t) of Section 25400.11, the city or county shall give a written notice of not less than 10 days in advance to the mobilehome park or special occupancy park owner to allow for remediation by the mobilehome park or special occupancy park owner in the manner prescribed by this chapter in addition to any other notice required by this section. If the mobilehome park or special occupancy park owner agrees, in writing, to undertake that remediation in compliance with the order, the city or county shall not take action pursuant to this section unless the owner is not in compliance with the agreement.

  (b) If a local health officer is unable to locate a property owner within 10 days after the date the local health officer issues an order pursuant to Section 25400.22, the city or county in which the property is located may remediate the property in accordance with this article. The city or county or its contractors may remove contaminated property as part of this remediation activity.

  (c) If a city or county elects to remediate contaminated property pursuant to this article, the property owner is liable for, and shall pay the city or county for, all actual costs related to the remediation, including, but not limited to, all of the following:

  (1) Posting and physical security of the contaminated site.

  (2) Notification of affected people, businesses or any other entity.

  (3) Actual expenses related to the recovery of cost, laboratory fees, cleanup services, removal costs, and administrative and filing fees.

  (d) If a real property owner does not pay the city or county for the costs of remediation specified in subdivision (c), the city or county may record a nuisance abatement lien pursuant to Section 38773.1 of the Government Code against the real property for the actual costs related to the remediation or bring an action against the real property owner for the remediation costs. The nuisance abatement lien shall have the effect, priority, and enforceability of a judgment lien from the date of its recordation.

Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

RECORDING OF LIENS OR DOCUMENTS IN PROPERTY RECORDS

COLORADO
- NOT FOUND

CONNECTICUT
- NOT FOUND

DELAWARE
- NOT FOUND

FLORIDA
- NOT FOUND

GEORGIA
- NOT FOUND

HAWAII
- NOT FOUND

IDAHO
- NOT FOUND

ILLINOIS
- NOT FOUND

INDIANA
- NOT FOUND

IOWA
- IOWA CODE ANN. § 124C.4 (West 2008): 1. An amount for which a person having control over a clandestine laboratory is liable to the state shall constitute a lien in favor of the state upon all property and rights to property, real and personal, belonging to that person. This lien shall attach at the time the charges set out in section 124C.3 become due and payable and shall continue for ten years from the time the lien attaches unless sooner released or otherwise discharged. The lien may be extended, within ten years from the date the lien attaches, by filing a notice with the appropriate county official of the appropriate county and from the time of filing the lien shall be extended as to the property in that county for ten years, unless sooner released or otherwise discharged, with no limit on the number of extensions.

2. In order to preserve the lien against subsequent mortgagees, purchasers, or judgment creditors for value and without notice of the lien, the commissioner shall file with the recorder of the county in which the property is located a notice of the lien. A laboratory cleanup lien shall be recorded in the index of income tax liens in the county.

3. Each notice of lien shall be endorsed with the day, hour, and minute when the notice was received, and the notice shall be preserved, indexed, and recorded in the manner provided for recording real estate mortgages. The lien shall be effective from the time of its indexing. The department shall pay a recording fee as provided by section 331.604 for the recording of the lien or for its satisfaction.

4. Upon payment of a charge for which the commissioner has filed a notice of lien with a county, the commissioner shall immediately file with the county a satisfaction of the charge and the satisfaction of the charge shall be indicated on the index.

The attorney general, upon the request of the commissioner, shall bring an action at law or in equity, without bond, to enforce payment of any charges or penalties, and in such action the attorney general shall have the assistance of the county attorney of the county in which the action is pending.

The remedies available to the state in this chapter shall be cumulative and no action taken by the commissioner or attorney general shall be construed to be an election on the part of the state to pursue any remedy to the exclusion of any other remedy provided by law.

KANSAS

- NOT FOUND

KENTUCKY

- NOT FOUND

LOUISIANA

- NOT FOUND

MAINE

- NOT FOUND

MARYLAND

- NOT FOUND

MASSACHUSETTS

RECORDING OF LIENS OR DOCUMENTS IN PROPERTY RECORDS

- NOT FOUND

MICHIGAN

- NOT FOUND

MINNESOTA

- MINN. STAT. ANN. § 145A.08, Subd. 2 and 3 (West 2008): Subd. 2. Assessment of cost of enforcement. (a) If costs are assessed for enforcement of section 145A.04, subdivision 8, and no procedure for the assessment of costs has been specified in an agreement established under section 145A.07, the enforcement costs must be assessed as prescribed in this subdivision.

  (b) A debt or claim against an individual owner or single piece of real property resulting from an enforcement action authorized by section 145A.04, subdivision 8, must not exceed the cost of abatement or removal.

  (c) The cost of an enforcement action under section 145A.04, subdivision 8, may be assessed and charged against the real property on which the public health nuisance, source of filth, or cause of sickness was located. The auditor of the county in which the action is taken shall extend the cost so assessed and charged on the tax roll of the county against the real property on which the enforcement action was taken.

  (d) The cost of an enforcement action taken by a town or city board of health under section 145A.04, subdivision 8, may be recovered from the county in which the town or city is located if the city clerk or other officer certifies the costs of the enforcement action to the county auditor as prescribed in this section. Taxes equal to the full amount of the enforcement action but not exceeding the limit in paragraph (b) must be collected by the county treasurer and paid to the city or town as other taxes are collected and paid.

  Subd. 3. Tax levy authorized. A city council or county board that has formed or is a member of a board of health may levy taxes on all taxable property in its jurisdiction to pay the cost of performing its duties under this chapter.

- MINN. STAT. ANN. § 152.0275, Subd. 2 (g)-(j) (West 2008): (g) If the applicable authority determines under paragraph (c) that a motor vehicle has been contaminated by substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine and if the authority is able to obtain the certificate of title for the motor vehicle, the authority shall notify the registrar of motor vehicles of this

fact and in addition, forward the certificate of title to the registrar. The authority shall also notify the registrar when it vacates its order under paragraph (e).

(h) The applicable authority issuing an order under paragraph (c) shall record with the county recorder or registrar of titles of the county where the clandestine lab is located an affidavit containing the name of the owner, a legal description of the property where the clandestine lab was located, and a map drawn from available information showing the boundary of the property and the location of the contaminated area on the property that is prohibited from being occupied or used that discloses to any potential transferee:

(1) that the property, or portion of the property, was the site of a clandestine lab;

(2) the location, condition, and circumstances of the clandestine lab, to the full extent known or reasonably ascertainable; and

(3) that the use of the property or some portion of it may be restricted as provided by paragraph (c).

If an inaccurate drawing or description is filed, the authority, on request of the owner or another interested person, shall file a supplemental affidavit with a corrected drawing or description. If the authority vacates its order under paragraph (e), the authority shall record an affidavit that contains the recording information of the above affidavit and states that the order is vacated. Upon filing the affidavit vacating the order, the affidavit and the affidavit filed under this paragraph, together with the information set forth in the affidavits, cease to constitute either actual or constructive notice.

(i) If proper removal and remediation has occurred on the property, an interested party may record an affidavit indicating that this has occurred. Upon filing the affidavit described in this paragraph, the affidavit and the affidavit filed under paragraph (h), together with the information set forth in the affidavits, cease to constitute either actual or constructive notice. Failure to record an affidavit under this section does not affect or prevent any transfer of ownership of the property.

(j) The county recorder or registrar of titles must record all affidavits presented under paragraph (h) or (i) in a manner that assures their disclosure in the ordinary course of a title search of the subject property.

(k) The commissioner of health shall post on the Internet contact information for each local community health services administrator.

MISSISSIPPI

RECORDING OF LIENS OR DOCUMENTS IN PROPERTY RECORDS

- NOT FOUND

MISSOURI
- NOT FOUND

MONTANA
- NOT FOUND

NEBRASKA
- NOT FOUND

NEVADA
- NOT FOUND

NEW HAMPSHIRE
- NOT FOUND

NEW JERSEY
- NOT FOUND

NEW MEXICO
- NOT FOUND

NEW YORK
- NOT FOUND

NORTH CAROLINA
- NOT FOUND

NORTH DAKOTA
- NOT FOUND

OHIO
- NOT FOUND

OKLAHOMA
- NOT FOUND

OREGON

RECORDING OF LIENS OR DOCUMENTS IN PROPERTY RECORDS

- OR. REV. STAT. ANN. § 453.886 (2007): (1) Before incurring costs to decontaminate a property that is a nuisance described in ORS 105.555 (1)(c) or to have the property certified as fit for use under ORS 453.885, a county or other local government shall give notice to each owner of record for the property and to each person that has a mortgage, trust deed or other lien on the property recorded in the county deed records. A notice given by the county or local government to an owner or lienholder shall allow the owner or lienholder not less than 60 days to respond.

  (2) An owner or lienholder making a timely response to a notice given under subsection (1) of this section may propose a course of action by the owner or lienholder to decontaminate and obtain certification of the property within a reasonable time. If the owner or lienholder proposes a course of action that may be reasonably expected to achieve the decontamination and certification of the property, except as provided in this subsection the county or other local government shall suspend other efforts to decontaminate or obtain certification of the property. This subsection does not prevent the county or local government from securing the property by obtaining an injunction against use of the property.

  (3) If more than one owner or lienholder proposes a reasonable course of action for a property, the county or other local government may require that the owners and lienholders proposing courses of action work together to decontaminate and obtain certification of the property. The county or local government may require an owner or lienholder to periodically report to the county or local government regarding efforts to carry out a course of action. The county or local government may resume efforts to decontaminate and obtain certification of a property if the county or local government determines, after opportunity for a hearing, that an owner or lienholder has failed to diligently pursue the course of action proposed by the owner or lienholder and to complete the course of action within a reasonable time.

  (4) A lien under ORS 105.585 (2) for costs incurred by the county or local government in decontaminating and obtaining certification of the property is superior to, has priority over and shall be fully satisfied before all other liens, judgments, mortgages, security interests or encumbrances on the property other than tax liens, regardless of the date of creating, filing or recording of the lien, judgment, mortgage, security interest or encumbrance, if the county or other local government incurs the cost after giving notice to owners and lienholders under subsection (1) of this section and:

  (a) No owner or lienholder provided a response on or before the 60th day after the giving of the notice; or

(b) An owner or lienholder for the property timely responded to the notice with a proposed course of action for decontaminating and obtaining certification of the property, but failed to complete the course of action within:

(A) Eight months after the notice date; or

(B) A date more than eight months after the notice date that was agreed to by the county or local government that gave the notice and the owner or lienholder that timely responded to the notice.

- OR. REV. STAT. ANN. § 475.485 (2007): (1) All of the state's cleanup costs, penalties and punitive damages for which a person is liable to the state under ORS 475.435 or 475.455 shall constitute a lien upon any real and personal property owned by the person.

  (2) At the discretion of the Department of Environmental Quality, the department may file a claim of lien on real property or a claim of lien on personal property. The department shall file a claim of lien on real property to be charged with a lien under this section with the recording officer of each county in which the real property is located and shall file a claim of lien on personal property to be charged with a lien under this section with the Secretary of State. The lien shall attach and become enforceable on the day of such filing. The lien claim shall contain:

  (a) A statement of the demand;

  (b) The name of the person against whose property the lien attaches;

  (c) A description of the property charged with the lien sufficient for identification; and

  (d) A statement of the failure of the person to conduct cleanup action and pay penalties and damages as required.

  (3) The lien created by this section may be foreclosed by a suit on real and personal property in the circuit court in the manner provided by law for the foreclosure of other liens.

  (4) Nothing in this section shall affect the right of the state to bring an action against any person to recover all costs and damages for which the person is liable under ORS 475.435 or 475.455.

  (5) A lien created under this section shall have priority over any claim of the state under ORS 166.715 to 166.735 or any local government forfeiture ordinance or regulation.

RECORDING OF LIENS OR DOCUMENTS IN PROPERTY RECORDS

PENNSYLVANIA

- NOT FOUND

RHODE ISLAND

- NOT FOUND

SOUTH CAROLINA

- NOT FOUND

SOUTH DAKOTA

- NOT FOUND

TENNESSEE

- TENN. CODE ANN. § 68-212-507(a) (West 2008): (a) Whenever any real property, or any structure or room in any structure on any real property, is quarantined by a local law enforcement agency, pursuant to § 68-212-503, due to the manufacture of methamphetamine, the local law enforcement agency quarantining the property shall file, for recording, a notice of methamphetamine lab quarantine in the office of county register in the county in which the real property or any portion of the real property lies. In lieu of acknowledgment, the signature of the local law enforcement agent shall be accepted. The register shall record such notice in the record series containing the title deeds and shall index the notice with the owner or owners of the real property as the grantor and with the agency giving the notice as the grantee. No fee shall be collected for this filing.

  (b) A notice in a form substantially as follows is sufficient to comply with subsection (a):

  Notice of Methamphetamine Lab Quarantine

  Notice is hereby given that an illegal laboratory for the manufacture of methamphetamine was seized at the location described below on ___ (date) ___. This real property has been quarantined by ___ (name of local law enforcement agency) pursuant to Tennessee Code Annotated, § 68-212-503. The property is to remain quarantined until a certified industrial hygienist or other person or entity named on the commissioner's list pursuant to § 68-212-502 certifies that the property is safe for human use.

  Name of Property Owner or Owners:

  _____

  Property Address:

RECORDING OF LIENS OR DOCUMENTS IN PROPERTY RECORDS

_____

_____

Apartment or Unit Number (if applicable): _____

Description of Property Sufficient to Identify: _____

_____

_____

Name of Person and Agency Giving Notice:

_____

_____ _____ _____

Signature of Person Giving Notice Title/Position Date

TEXAS

- NOT FOUND

UTAH

- NOT FOUND

VERMONT

- NOT FOUND

VIRGINIA

- NOT FOUND

WASHINGTON

- WASH. REV. CODE ANN. § 64.44.050 (West 2008) (as amended by 2008 H.B. 2817): (1) An owner of contaminated property who desires to have the property decontaminated, demolished, or disposed of shall use the services of an authorized contractor unless otherwise authorized by the local health officer. The contractor and property owner shall prepare and submit a written work plan for decontamination, demolition, or disposal to the local health officer. The local health officer may charge a reasonable fee for review of the work plan. If the work plan is approved and the decontamination, demolition, or disposal is completed and the property is retested according to the plan and properly documented, then the health officer shall allow reuse of the property. A release for reuse document shall be recorded in the real property records indicating the property has been decontaminated, demolished, or disposed of in accordance with rules of the state department of health. The property owner is responsible for: (a) The costs of any property

testing which may be required to demonstrate the presence or absence of hazardous chemicals; and (b) the costs of the property's decontamination, demolition, and disposal expenses, as well as costs incurred by the local health officer resulting from the enforcement of this chapter.

(2)(a) In a case where the contaminated property is a motor vehicle as defined in RCW 46.04.320, a vehicle as defined in RCW 46.04.670, or a vessel as defined in RCW 88.02.010, and the local health officer has issued an order declaring the property unfit and prohibiting its use, the city or county in which the property is located shall take action to prohibit use, occupancy, or removal, and shall require demolition, disposal, or decontamination of the property. The city, county, or local law enforcement agency may impound the vehicle or vessel to enforce this chapter.

(b) The property owner shall have the property demolished, disposed of, or decontaminated by an authorized contractor, or under a written work plan approved by the local health officer, within thirty days of receiving the order declaring the property unfit and prohibited from use. After all procedures granting the right of notice and the opportunity to appeal in RCW 64.44.030 have been exhausted, if the property owner has not demolished, disposed of, or decontaminated the property using an authorized contractor, or under a written work plan approved by the local health officer within thirty days, then the local health officer or the local law enforcement agency may demolish, dispose of, or decontaminate the property. The property owner is responsible for the costs of the property's demolition, disposal, or decontamination, as well as all costs incurred by the local health officer or the local law enforcement agency resulting from the enforcement of this chapter, except as otherwise provided under this subsection.

(c) The legal owner of a motor vehicle as defined in RCW 46.04.320, a vehicle as defined in RCW 46.04.670, or a vessel as defined in RCW 88.02.010 whose sole basis of ownership is a bona fide security interest is responsible for costs under this subsection if the legal owner had knowledge of or consented to any act or omission that caused contamination of the vehicle or vessel.

(d) If the vehicle or vessel has been stolen and the property owner neither had knowledge of nor consented to any act or omission that contributed to the theft and subsequent contamination of the vehicle or vessel, the owner is not responsible for costs under this subsection. However, if the registered owner is insured, the registered owner shall, within fifteen calendar days of receiving an order declaring the property unfit and prohibiting its use, submit a claim to his or her insurer for reimbursement of costs of the property's demolition, disposal, or decontamination, as well as all costs incurred by the local health officer or the local law enforcement agency resulting from the enforcement

of this chapter, and shall provide proof of claim to the local health officer or the local law enforcement agency.

(e) If the property owner has not acted to demolish, dispose of, or decontaminate as set forth in this subsection regardless of responsibility for costs, and the local health officer or local law enforcement agency has taken responsibility for demolition, disposal, or decontamination, including all associated costs, then all rights, title, and interest in the property shall be deemed forfeited to the local health jurisdiction or the local law enforcement agency.

(f) This subsection may not be construed to limit the authority of a city, county, local law enforcement agency, or local health officer to take action under this chapter to require the owner of the real property upon which the contaminated vehicle or vessel is located to comply with the requirements of this chapter, including provisions for the right of notice and opportunity to appeal as provided in RCW 64.44.030.

(3) Except as provided in subsection (2) of this section, the local health officer has thirty days from the issuance of an order declaring a property unfit and prohibiting its use to establish a reasonable timeline for decontamination. The department of health shall establish the factors to be considered by the local health officer in establishing the appropriate amount of time.

The local health officer shall notify the property owner of the proposed time frame by United States mail to the last known address. Notice shall be postmarked no later than the thirtieth day from the issuance of the order. The property owner may request a modification of the time frame by submitting a letter identifying the circumstances which justify such an extension to the local health officer within thirty-five days of the date of the postmark on the notification regardless of when received.

- H.R. 2817, 2008 Leg., 60th Sess. (Wa. 2008): (1) The Washington state department of licensing shall take action to place notification on the title of any motor vehicle as defined in 46.04.320, a vehicle as defined in RCW 46.04.670, or a vessel as defined in RCW 88.02.010, that the vehicle or vessel has been declared unfit and prohibited from use by order of the local health officer under this chapter. When satisfactory decontamination has been completed and the contaminated property has been retested according to the written work plan approved by the local health officer, a release for reuse document shall be issued by the local health officer, and the department of licensing shall place notification on the title of that vehicle or vessel as having been decontaminated and released for reuse.

(2)(a) A person is guilty of a gross misdemeanor if he or she advertises for sale or sells a motor vehicle as defined in RCW 46.04.320, a vehicle as defined in RCW 46.04.670, or a vessel as defined in RCW 88.02.010, that has been declared unfit and prohibited from use by the local health officer under this chapter when:

(i) The person has knowledge that the local health officer has issued an order declaring the vehicle or vessel unfit and prohibiting its use; or

(ii) A notification has been placed on the title under subsection (1) of this section that the vehicle or vessel has been declared unfit and prohibited from use.

(b) A person may advertise or sell a vehicle or vessel when a release for reuse document has been issued by the local health officer under this chapter or a notification has been placed on the title under subsection (1) of this section that the vehicle or vessel has been decontaminated and released for reuse.

WEST VIRGINIA

- NOT FOUND

WISCONSIN

- NOT FOUND

WYOMING

- WYO. STAT. ANN. § 35-9-158 (2008): (a) The decision to commence a civil action to recover expenses shall be made by the state, political subdivision of the state or other unit of local government, including local emergency response authorities and regional response teams, in consultation with the attorney general or county or municipal attorney as appropriate. With respect to a civil action to recover expenses for a clandestine laboratory operation incident, the governing body shall first make such claim against the party responsible for the clandestine laboratory operation and shall use the proceeds of any asset forfeiture directly related to the building or structure containing the clandestine laboratory to offset expenses, including expenses for remediation of the site. Claims of expenses for remediation for a clandestine laboratory operation incident may be made against the owner of a building or structure containing a clandestine laboratory operation only as follows…

  (ii) The court shall examine, correct, if necessary, and allow the expense account to the extent the expenses exceed those recovered from the party responsible for the clandestine laboratory operation. If the owner did not know or could not with reasonable diligence have known of the clandestine laboratory operation, the amount recoverable from the

owner shall be limited to one percent (1%) of the fair market value as determined by the county assessor of that portion of the building, structure or land declared uninhabitable by the incident commander;

(iii) The amount allowed by the court constitutes a lien against the real property on which a clandestine laboratory operation incident occurred or was situated. If the amount is not paid by the owner within six (6) months after the amount has been examined and approved by the court, the real estate may be sold under court order by the county sheriff in the manner provided by law for the sale of real estate upon execution;

(iv) The proceeds of the sale shall be paid into the treasury of the governing body of the law enforcement agency acting as the emergency responder. If the amount received as salvage or upon sale exceeds the expenses allowed by the court, the court shall direct payment of the surplus to the previous owner for his use and benefit;

(v) Whenever any debt which is a lien pursuant to this subsection is paid and satisfied, the law enforcement agency acting as an emergency responder shall file notice of satisfaction of the lien statement in the office of the county clerk of any county in which the lien is filed; and

(vi) If the expenses of the law enforcement agency exceed the amount allowed by the court pursuant to paragraph (ii) of this subsection, the law enforcement agency acting as an emergency responder may apply for reimbursement of the excess expenses from the funds as authorized by W.S. 1-40-118(g)(i)(C). If the expenses further exceed amounts available under W.S. 1-40-118(g)(i)(C), the emergency responder may apply for reimbursement from the clandestine laboratory remediation account created pursuant to W.S. 35-9-159(f).

(b) Prior to commencing a civil action for recovery of expenses pursuant to this act, the governmental entity shall afford the person alleged to owe those expenses a reasonable opportunity to engage in nonbinding mediation. Each party to mediation shall bear his own costs and expenses, including a proportionate share of the fees of the mediator.

(c) In the event that the attorney general or county or municipal attorney prevails in a civil action for reimbursement under this act, the court shall award costs of collection including reasonable attorney's fees, investigation expenses and litigation expenses.

(d) Any person who receives remuneration for the emergency response expenses pursuant to any other federal or state law shall be precluded from recovering reimbursement for those expenses under this act. Nothing in this act shall otherwise affect or modify in any way the obligations or liability of any person under any other provision of state or federal

law, including common law, for damages, injury or loss resulting from the release of any hazardous material or for remedial action or the expenses of remedial action for the release.

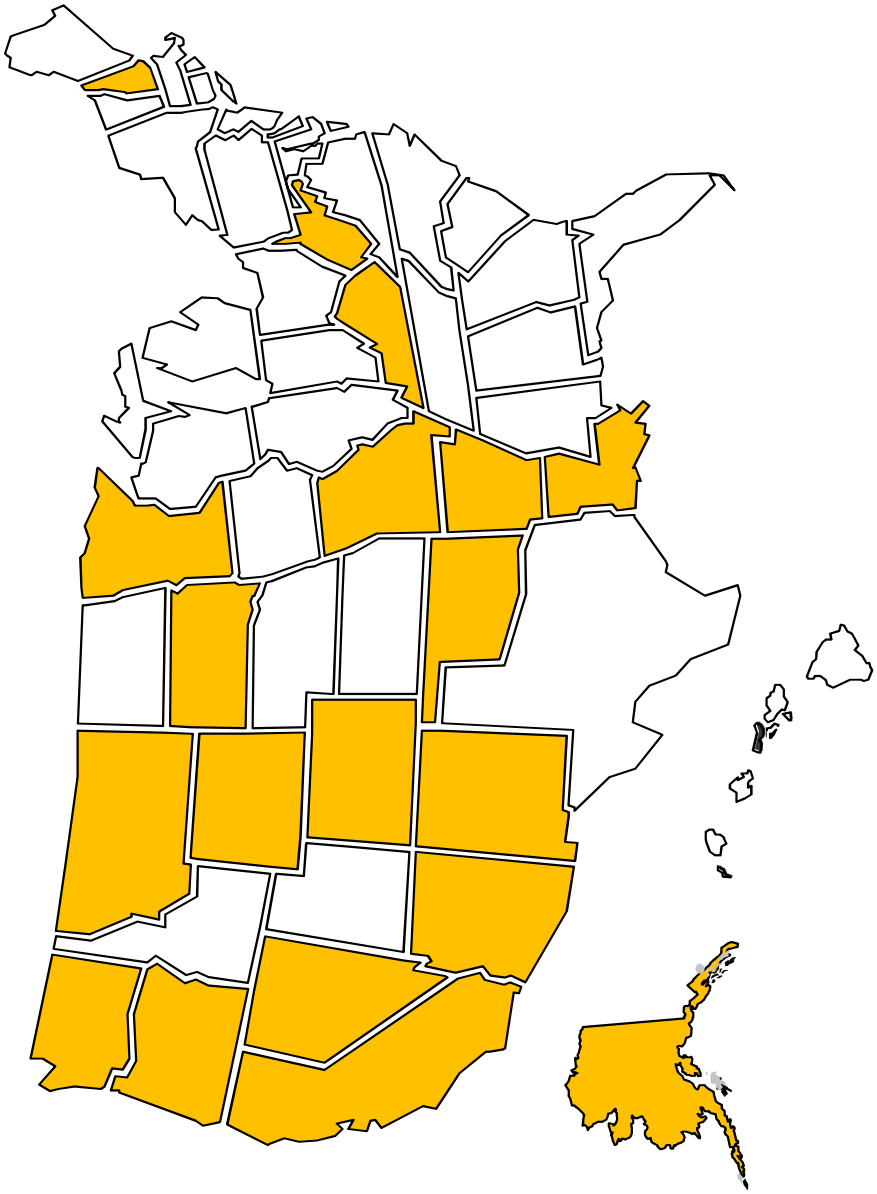
DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

States have adopted laws that require property owners, lessors and transferors to provide written disclosure to prospective buyers, tenants, transferees and customers regarding the fact that a property, recreational vehicle, mobile home, vehicle, or motel/hotel room has been the site of contamination resulting from illegal drug manufacturing activity. A number of states require that a person required to disclose must disclose the fact that the property was used or is being used as a drug manufacturing lab, while other states terminate the requirement to disclose once the property is remediated and deemed safe for inhabitation.

Disclosure typically occurs within so many days of signing a contract to purchase real property, prior to taking possession of the property or before occupying a room. The prospective buyer, tenant, transferee or customer in turn has the responsibility of acknowledging receipt of the disclosure within a specific time frame. Failure on the part of the owner, seller, lessor, transferor to provide the aforementioned disclosure results in a myriad of consequences which include civil penalties, liability for any harm resulting from the failure to disclose, and the ability on the part of the potential buyer, tenant, transferee or customer to terminate or void the purchase/lease/rental contract/agreement.

Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

STATES WITH STATUTES, REGULATIONS OR GUIDELINES THAT REQUIRE A SELLER, LESSOR OR TRANSFOROR TO DISCLOSE CONTAMINATION



Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

ALABAMA

- NOT FOUND

ALASKA

- ALASKA STAT. § 46.03.510(a)-(b) (2008): Until determined to be fit for use under AS 46.03.550, the property for which a notice has been issued under AS 46.03.500(a) may not be transferred, sold, leased, or rented to another person except as provided in (b) of this section, and a person may not use or occupy the property at any time after the fourth day following the day on which the property was posted with the notice required under AS 46.03.500(d), except as necessary for sampling, testing, or decontamination under AS 46.03.520 and 46.03.540. An oral or written contract that would transfer, sell, lease, rent, or otherwise allow the use of the property in violation of this subsection is voidable between the parties at the option of the purchaser, transferee, user, lessee, or renter. However, this subsection (a) of § 46.03.510 does not:

  (1) make voidable a promissory note or other evidence of indebtedness or a mortgage, trust deed, or other security interest securing the promissory note or evidence of indebtedness, if the note or evidence of indebtedness, mortgage, trust deed, or other security interest was given to a person other than the person transferring, selling, using, leasing, or renting the property to induce the person to finance the transfer, sale, use, leasing, or rental of the property;

  (2) make voidable a lease or rental agreement between the property owner and the person who caused the property to be contaminated and determined unfit for use; or

  (3) impair obligations or duties required to be performed on termination of a contract, as required by the contract, such as payment of damages or return of refundable deposits.

  (b) Notwithstanding (a) of this section, property covered by (a) of this section may be transferred or sold if full written disclosure is made to the prospective transferee or purchaser that the property has been determined to be an illegal drug manufacturing site and the property has not been determined to be fit for use. The disclosure shall be attached to the earnest money receipt, if any, and shall accompany the transfer or sale document. The disclosure is not considered to be part of the transfer or sale document, however, and may not be recorded. The property shall continue to be subject to the restrictions in (a) of this section after transfer or sale under this subsection.

ARIZONA

- ARIZ. REV. STAT. ANN. § 12-1000(B)(11) (2008): The notice of removal shall be in writing and shall contain all of the following…

11. A statement that if an owner fails to provide any notice required by this section, the owner is subject to a civil penalty and a buyer, tenant or customer may void a purchase contract, rental agreement or other agreement.

- ARIZ. REV. STAT. ANN. § 12-1000(F)-(G) (2008): F. The following notice requirements apply until the remediation is complete as provided in subsection D of this section:

  1. Within five days after a buyer signs a contract to purchase the real property, the owner shall notify the buyer in writing that methamphetamine, ecstasy or LSD was manufactured on the real property or that an arrest was made pursuant this section. The buyer shall acknowledge receipt of the notice. A buyer may cancel the real estate purchase contract within five days after receiving the notice. If the owner does not comply with this paragraph, the buyer may cancel the purchase contract.

  2. The landlord shall notify a prospective tenant for a dwelling unit that was the subject of the notice in writing that methamphetamine, ecstasy or LSD was manufactured on the real property or that an arrest was made pursuant to this section. The tenant shall acknowledge receipt of the notice before taking possession of the real property or before signing a rental agreement for the real property. The notice shall be attached to the rental agreement. If the landlord does not comply with this paragraph, the tenant may void the rental agreement.

  3. Before a customer occupies a room that was the subject of the notice, the owner or manager shall notify the customer in writing that methamphetamine, ecstasy or LSD was manufactured in the room or that an arrest was made pursuant to this section. If the owner or manager does not comply with this paragraph, the customer may void the agreement.

  4. The owner shall notify a buyer or prospective tenant in writing that methamphetamine, ecstasy or LSD was manufactured in the mobile home or recreational vehicle or that an arrest was made pursuant to this section. The buyer shall acknowledge receipt of the notice before taking possession of the mobile home or recreational vehicle. A buyer may cancel the purchase contract within five days after receiving the notice. The tenant shall acknowledge receipt of the notice before taking possession of the mobile home or recreational vehicle or before signing a rental agreement for the mobile home or recreational vehicle. The notice shall be attached to the rental agreement. If the owner does not comply with this paragraph, the tenant may void the rental agreement.

  5. If a mobile home or recreational vehicle in a space rental park contains a clandestine drug laboratory, the landlord, on receipt of a notice pursuant to this section, shall notify the lien holder of record and the owner of record of the unit to remove it from the park

within thirty days. If the unit is not removed within thirty days, the landlord may remove or demolish the unit and dispose of it as junk and shall notify the department of transportation of the demolition. A landlord that complies with this subsection is not liable for such action.

G. If an owner fails to provide any notice required by this section, the owner is subject to a civil penalty of one thousand dollars and is liable for any harm resulting from the owner's failure to comply with the requirements of this section.

ARKANSAS

- ARK. CODE ANN. § 8-7-1406 (a) (West 2007): After property contaminated through the manufacture of controlled substances is remediated and the property owner receives official notification from the Arkansas Department of Environmental Quality, no person, including the property owner, landlord, and real estate agent, is required to report or otherwise disclose the past contamination.

CALIFORNIA

- CAL. HEALTH & SAFETY CODE § 25400.28 (West 2008): Until a property owner subject to Section 25400.25 receives a notice from a local health officer pursuant to Section 25400.27 that the property identified in an order requires no further action, all of the following shall apply to that property:

  (a) Except as otherwise required in Section 1102.3 or 1102.3a of the Civil Code, the property owner shall notify the prospective buyer in writing of the pending order, and provide the prospective buyer with a copy of the pending order. The prospective buyer shall acknowledge, in writing, the receipt of a copy of the pending order.

  (b) The property owner shall provide written notice to all prospective tenants that have completed an application to rent an affected dwelling unit or other property of the remediation order, and shall provide the prospective tenant with a copy of the order. The prospective tenant shall acknowledge, in writing, the receipt of the notice and pending order before signing a rental agreement. The notice shall be attached to the rental agreement. If the property owner does not comply with this subdivision, the prospective tenant may void the rental agreement.

  (c)(1) If a mobilehome, manufactured home, or recreational vehicle, as specified in paragraph (2) of subdivision (t) of Section 25400.11, is the subject of the order issued by the local health officer pursuant to paragraph (3) of subdivision (a) of Section 25400.22 or the subject of a notice posted pursuant to subdivision (i) of Section 25400.22, the mobilehome, manufactured home, or recreational vehicle shall not be sold, rented, or occupied until the seller or lessor of the mobilehome, manufactured home, or recreational

vehicle or the seller's or lessor's agent notifies the prospective buyer or tenant, and the owner of the mobilehome park or special occupancy park in which the mobilehome, manufactured home, or recreational vehicle is located, in writing, of all methamphetamine laboratory activities that have taken place in the mobilehome, manufactured home, or recreational vehicle and any remediation of the home or vehicle, the prospective buyer, tenant, or lessee is provided with a copy of the order.

(2) If a mobilehome, manufactured home, or recreational vehicle specified in paragraph (1) is subject to a sale, the prospective buyer shall acknowledge in writing receipt of the notice and a copy of the order specified in this subdivision before taking possession of the mobilehome, manufactured home, or recreational vehicle.

(3) If the mobilehome, manufactured home, or recreational vehicle specified in paragraph (1) is subject to a rental agreement or lease, the notice and order specified in this subdivision shall be attached to the rental agreement.

(4) If the owner of a mobilehome, manufactured home, or recreational vehicle specified in paragraph (1) does not comply with the requirements of this subdivision, a prospective tenant may void the rental agreement and a prospective buyer may void the purchase agreement, as applicable.

(5) If the remediation of a mobilehome, manufactured home, or recreational vehicle specified in paragraph (1) is not completed by the registered owner of the mobilehome, manufactured home, or recreational vehicle in compliance with an order issued by a local health officer pursuant to this chapter, in addition to authority granted by Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of the Civil Code) and the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of the Civil Code), the owner of the mobilehome park or special occupancy park may remove, dismantle, demolish, or otherwise abate the nuisance.

(6) An activity specified in paragraph (5) to remove and dispose of the mobilehome, manufactured home, or recreational vehicle shall only be taken by an authorized contractor. In addition to any other requirements of this chapter, the registered owner of the recreational vehicle or registered owner of the mobilehome or manufactured home, as applicable, is severally and collectively liable for the cost of any remediation ordered by the local health officer.

COLORADO

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

- COLO. REV. STAT. ANN. § 38-35.7-103 (West 2008): (1) A buyer of residential real property has the right to test the property for the purpose of determining whether the property has ever been used as a methamphetamine laboratory.

  (2)(a) Tests conducted pursuant to this section shall be performed by a certified industrial hygienist or industrial hygienist, as those terms are defined in section 24-30-1402, C.R.S. If the buyer's test results indicate that the property has been used a methamphetamine laboratory but has not been remediated to meet the standards established by rules of the state board of health promulgated pursuant to section 25-18.5-102, C.R.S., the buyer shall promptly give written notice to the seller of the results of the tests, and the buyer may terminate the contract.

  (b) The seller shall have thirty days after receipt of the notice to conduct a second independent test. If the seller's test results indicate that the property has been used as a methamphetamine laboratory but has not been remediated to meet the standards established by rules of the state board of health promulgated pursuant to section 25-18.5-102, C.R.S., then the second independent hygienist shall so notify the seller.

  (c) If the seller receives the notice referred to in paragraph (b) of this subsection (2) or if the seller receives the notice referred to in paragraph (a) of this subsection (2) and does not elect to have the property retested pursuant to paragraph (b) of this subsection (2), then an illegal drug laboratory used to manufacture methamphetamine shall be deemed to have been discovered and the owner shall be deemed to have received notice pursuant to section 25-18.5-103(1)(a), C.R.S. Nothing in this section shall prohibit a buyer from purchasing the property and assuming liability pursuant to section 25-18.5-103, C.R.S., if, on the date of closing, the buyer provides notice to the department of public health and environment of the purchase and assumption of liability and if the remediation required by section 25-18.5-103, C.R.S., is completed within ninety days after the date of closing.

  (3)(a) Except as specified in subsection (4) of this section, the seller shall disclose in writing to the buyer whether the seller knows that the property was previously used as a methamphetamine laboratory.

  (b) A seller who fails to make a disclosure required by this section at or before the time of sale and who knew of methamphetamine production on the property is liable to the buyer for:

  (I) Costs relating to remediation of the property according to the standards established by rules of the state board of health promulgated pursuant to section 25-18.5-102, C.R.S.;

(II) Costs relating to health-related injuries occurring after the sale to residents of the property caused by methamphetamine production on the property; and

(III) Reasonable attorney fees for collection of costs from the seller.

(c) A buyer shall commence an action under this subsection (3) within three years after the date on which the buyer closed the purchase of the property where the methamphetamine production occurred.

(4) If the seller became aware that the property was once used for the production of methamphetamine and the property was remediated in accordance with the standards established pursuant to section 25-18.5-102, C.R.S., and evidence of such remediation was received by the applicable governing body in compliance with the documentation requirements established pursuant to section 25-18.5-102, C.R.S., then the seller shall not be required to disclose that the property was used as a methamphetamine laboratory to a buyer, and the property shall be removed from any government-sponsored informational service listing properties that have been used for the production of methamphetamine.

(5) For purpose of this section, "residential real property" includes: Manufactured home; mobile home; condominium; townhome; home sold by the owner, a financial institution, or the federal department of housing and urban development; rental property, including an apartment; and short-term residence such as a motel or hotel.

CONNECTICUT

- NOT FOUND

DELAWARE

- NOT FOUND

FLORIDA

- NOT FOUND

GEORGIA

- NOT FOUND

HAWAII

- NOT FOUND

IDAHO

- NOT FOUND

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

ILLINOIS

- NOT FOUND

INDIANA

- NOT FOUND

IOWA

- NOT FOUND

KANSAS

- NOT FOUND

KENTUCKY

- KY. REV. STAT. ANN. § 224.01-410(10) (West 2007) (as amended by HB 765):(10) Any owner of contaminated property who leases, rents, or sells contaminated property upon which a methamphetamine contamination notice has been posted under subsection (9) of this section shall disclose in writing to any potential lessor, tenant, or buyer that the property is contaminated with methamphetamine and has not been decontaminated pursuant to the requirements set forth in this section. If the property has been decontaminated and released by the cabinet from the need for further action, notice under this subsection shall not be required. The Department for Public Health shall promulgate administrative regulations setting forth the disclosure requirements

LOUISIANA

- LA. REV. STAT. ANN. § 9:3198 (2008) (as amended by 2008 S.B. 801): A. (1) The seller of residential real property shall complete a property disclosure document in a form prescribed by the Louisiana Real Estate Commission or a form that contains at least the minimum language prescribed by the commission. The promulgation of this form shall be conducted in accordance with the Administrative Procedure Act no later than April 1, 2004.

  (2)(a) Included with the property disclosure documents required by this Section shall be a statement of notification to the purchaser as to whether or not he is obligated to be a member of a homeowners' association as a homeowner in the community in which he is purchasing property.

  (b) Included with the property disclosure documents required by this Section shall be a statement of acknowledgment as to whether or not an illegal laboratory for the production or manufacturing of methamphetamine was in operation on the purchasing property.

(3) The statement shall inform the purchaser that the information included in the disclosure statement relative to any homeowners' association is summary in nature and that the covenants and association governing documents are a matter of public record. The statement shall further inform the purchaser how such documents can be obtained.

(4) As used in this Subsection, "homeowners' association" or "association" means a nonprofit corporation, unincorporated association, or other legal entity which is created pursuant to a declaration whose members consist primarily of lot owners, and which is created to manage, maintain, or otherwise affect the association property or which otherwise governs the use of association property.

(5) Forms used for compliance with Paragraph (1) of this Subsection on and after April 1, 2005, shall also include a clause for the seller to indicate whether the property has been zoned commercial or industrial.

B. (1) The seller shall complete the property disclosure document in good faith to the best of the seller's belief and knowledge as of the date the disclosure is completed and signed by the seller. If the seller has no knowledge or information required by the disclosure document, the seller shall so indicate on the disclosure statement and shall be in compliance with this Chapter.

(2) The seller shall deliver or cause to be delivered the completed and signed property disclosure document to the purchaser no later than the time the purchaser makes an offer to purchase, exchange, or option the property or exercises the option to purchase the property pursuant to a lease with an option to purchase.

(3)(a) If the property disclosure document is delivered to the purchaser after the purchaser makes an offer, the purchaser may terminate any resulting real estate contract or withdraw the offer no later than seventy-two hours, excluding federal and state holidays and weekends, after receipt of the property disclosure document. Notwithstanding any other agreement between the purchaser and seller, if the purchaser terminates a real estate contract or withdraws an offer in accordance with this Chapter, the termination or withdrawal of offer is without penalty to the purchaser and any deposit or earnest money shall be promptly returned to the purchaser.

(b) Any rights of the purchaser to terminate the real estate contract provided by this Chapter are waived if not exercised prior to transfer of title or occupancy, whichever is earlier, by the purchaser in the case of a sale or exchange, or prior to the transfer of title in the case of a purchase pursuant to a lease with option to purchase.

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

(c) A transfer subject to this Chapter is not invalidated solely due to the failure of any person to comply with this Chapter.

(d) The provisions of this Chapter shall not affect any other rights of a purchaser to terminate a real estate contract for reasons other than those set forth in this Chapter.

C. If information disclosed in accordance with this Chapter becomes inaccurate as a result of any action, occurrence, or agreement after delivery of the property disclosure document, the resulting inaccuracy does not constitute a violation of this Chapter.

D. (1) A property disclosure document shall not be considered as a warranty by the seller. The information contained within the property disclosure document is for disclosure purposes only and is not intended to be a part of any contract between the purchaser and seller.

(2) The property disclosure document may not be used as a substitute for any inspections or warranties that the purchaser or seller may obtain. Nothing in this Chapter precludes the rights or duties of a purchaser to inspect the physical condition of the property.

E. A seller shall not be liable for any error, inaccuracy, or omission of any information required to be delivered to the purchaser in a property disclosure document if either of the following conditions exists:

(1) The error, inaccuracy, or omission was not a willful misrepresentation according to the best of the seller's information, knowledge, and belief.

(2) The error, inaccuracy, or omission was based on information provided by a public body or by another person with a professional license or special knowledge who provided a written or oral report or opinion that the seller reasonably believed to be correct and which was transmitted by the seller to the purchaser.

- LA. REV. STAT. ANN. §9:3198.1(C) (2008) (as amended by 2008 S.B. 801): C. If property that is listed as contaminated on the department's website is subsequently seized and sold at a sheriff's sale, the sheriff shall provide notice to all bidders present at the time the sheriff's sale is conducted.

MAINE

- NOT FOUND

MARYLAND

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

- NOT FOUND

MASSACHUSETTS

- NOT FOUND

MICHIGAN

- NOT FOUND

MINNESOTA

- MINN. STAT. ANN. § 152.0275, Subd. 2 (m)-(o)(West 2008): (m) Before signing an agreement to sell or transfer real property, the seller or transferor must disclose in writing to the buyer or transferee if, to the seller's or transferor's knowledge, methamphetamine production has occurred on the property. If methamphetamine production has occurred on the property, the disclosure shall include a statement to the buyer or transferee informing the buyer or transferee:

  (1) whether an order has been issued on the property as described in paragraph (c);

  (2) whether any orders issued against the property under paragraph (c) have been vacated under paragraph (j); or

  (3) if there was no order issued against the property and the seller or transferor is aware that methamphetamine production has occurred on the property, the status of removal and remediation on the property.

  (n) Unless the buyer or transferee and seller or transferor agree to the contrary in writing before the closing of the sale, a seller or transferor who fails to disclose, to the best of their knowledge, at the time of sale any of the facts required, and who knew or had reason to know of methamphetamine production on the property, is liable to the buyer or transferee for:

  (1) costs relating to remediation of the property according to the Department of Health's clandestine drug labs general cleanup guidelines and best practices; and

  (2) reasonable attorney fees for collection of costs from the seller or transferor.

  An action under this paragraph must be commenced within six years after the date on which the buyer or transferee closed the purchase or transfer of the real property where the methamphetamine production occurred.

(o) This section preempts all local ordinances relating to the sale or transfer of real property designated as a clandestine lab site.

- Minnesota Department of Health and Minnesota Pollution Control Agency, *Clandestine Drug Lab General Cleanup Guidance*, 28 (Apr. 3, 2007): Finally, before signing an agreement to sell or transfer the property, the seller must disclose in writing to the buyer that the property has been a meth lab or dump site and must disclose the status of the remediation.

MISSISSIPPI

- NOT FOUND

MISSOURI

- MO. ANN. STAT. § 441.236 (West 2008) (as amended by SB Nos. 89 & 37 2001): 1. In the event that any premises to be leased by a landlord is or was used as a site for methamphetamine production, the landlord shall disclose in writing to the tenant the fact that methamphetamine was produced on the premises, provided that the landlord had knowledge of such prior methamphetamine production. The landlord shall disclose any prior knowledge of methamphetamine production, regardless of whether the persons involved in the production were convicted for such production.

  2. A landlord shall disclose in writing the fact that any premises to be leased by the landlord either was the place of residence of a person convicted of any of the following crimes, or was the storage site or laboratory for any of the substances for which a person was convicted of any of the following crimes, provided that the landlord knew or should have known of such convictions:

  (1) Creation of a controlled substance in violation of section 195.420, RSMo;

  (2) Possession of ephedrine with intent to manufacture methamphetamine in violation of section 195.246, RSMo;

  (3) Unlawful use of drug paraphernalia with the intent to manufacture methamphetamine in violation of subsection 2 of section 195.233, RSMo;

  (4) Endangering the welfare of a child by any of the means described in subdivision (4) or (5) of subsection 1 of section 568.045, RSMo; or

  (5) Any other crime related to methamphetamine, its salts, optical isomers and salts of its optical isomers either in chapter 195, RSMo, or in any other provision of law.

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

- MO. ANN. STAT. § 441.236 (West 2008) (as amended by HB No. 471, 2001): In the event that any premises to be rented, leased, sold, transferred or conveyed is or was used as a site for methamphetamine production, the owner, seller, landlord or other transferor shall disclose in writing to the prospective lessee, purchaser or transferee the fact that methamphetamine was produced on the premises, provided that the owner, seller, landlord or other transferor has knowledge of such prior methamphetamine production. The owner shall disclose any prior knowledge of methamphetamine production, regardless of whether the persons involved in the production were convicted for such production.

- MO. ANN. STAT. § 442.606 (West 2008): 1. In the event that any parcel of real property to be sold, exchanged or transferred is or was used as a site for methamphetamine production, the seller or transferor shall disclose in writing to the buyer or transferee the fact that methamphetamine was produced on the premises, provided that the seller or transferor had knowledge of such prior methamphetamine production. The seller or transferor shall disclose any prior knowledge of methamphetamine production, regardless of whether the persons involved in the production were convicted for such production.

  2. A seller or transferor of any parcel of real property shall disclose in writing the fact that any premises to be sold or transferred either was the place of residence of a person convicted of any of the following crimes, or was the storage site or laboratory for any of the substances for which a person was convicted of any of the following crimes, provided that the seller or transferor knew or should have known of such convictions:

  (1) Creation of a controlled substance in violation of section 195.420, RSMo;

  (2) Possession of ephedrine with intent to manufacture methamphetamine in violation of section 195.246, RSMo;

  (3) Unlawful use of drug paraphernalia with the intent to manufacture methamphetamine in violation of subsection 2 of section 195.233, RSMo;

  (4) Endangering the welfare of a child by any of the means described in subdivision (4) or (5) of subsection 1 of section 568.045, RSMo; or

  (5) Any other crime related to methamphetamine, its salts, optical isomers and salts of its optical isomers either in chapter 195, RSMo, or in any other provision of law.

MONTANA

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

- MONT. CODE ANN. § 75-10-1305 (2007): (1) An owner of inhabitable property that is known by the owner to have been used as a clandestine methamphetamine drug lab shall notify in writing any subsequent occupant or purchaser of the inhabitable property of that fact if the inhabitable property has not been remediated to the standards established in 75-10-1303 by a contractor who is certified in accordance with 75-10-1304.

  (2) An owner or an owner's agent referred to in subsection (1) may provide notice to a subsequent occupant or purchaser that the owner or the owner's agent has submitted:

  (a) documentation to the department by a contractor who is certified pursuant to 75-10-1304 that the inhabitable property has been remediated to the standards established in 75-10-1303; or

  (b) documentation by a certified contractor that the property meets the decontamination standards without decontamination.

  (3) Notice as required or authorized in this section must occur before agreement to a lease or sale of the inhabitable property.

  (4) If the department has confirmed that the decontamination standard provided for in 75-10-1303 has been met and if notice has been given as provided in subsections (2) and (3), the owner and the owner's agent are not liable in any action brought by a person who has been given notice that is based on the presence of methamphetamine in an inhabitable property.

  (5) The immunity provided for in subsection (4) does not apply to an owner or an owner's agent who caused the methamphetamine contamination.

- MONT. CODE ANN. § 75-10-1306(5) (2007): Notwithstanding any other provision of law, once an inhabitable property has been removed from the list required in subsection (2), a property owner, landlord, or real estate agent is not required to report or otherwise disclose the past contamination.

NEBRASKA

- NOT FOUND

NEVADA

- NEV. REV. STAT. ANN. § 40.770 (West 2007): 1. Except as otherwise provided in subsection 6, in any sale, lease or rental of real property, the fact that the property is or has been:

(a) The site of a homicide, suicide or death by any other cause, except a death that results from a condition of the property;

(b) The site of any crime punishable as a felony other than a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine; or

(c) Occupied by a person exposed to the human immunodeficiency virus or suffering from acquired immune deficiency syndrome or any other disease that is not known to be transmitted through occupancy of the property,

is not material to the transaction.

2. In any sale, lease or rental of real property, the fact that a sex offender, as defined in NRS 179D.095, resides or is expected to reside in the community is not material to the transaction, and the seller, lessor or landlord or any agent of the seller, lessor or landlord does not have a duty to disclose such a fact to a buyer, lessee or tenant or any agent of a buyer, lessee or tenant.

3. In any sale, lease or rental of real property, the fact that a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS is located near the property being sold, leased or rented is not material to the transaction.

4. A seller, lessor or landlord or any agent of the seller, lessor or landlord is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1, 2 or 3 that is not material to the transaction or of which the seller, lessor or landlord or agent of the seller, lessor or landlord had no actual knowledge.

5. Except as otherwise provided in an agreement between a buyer, lessee or tenant and his agent, an agent of the buyer, lessee or tenant is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1, 2 or 3 that is not material to the transaction or of which the agent of the buyer, lessee or tenant had no actual knowledge.

6. For purposes of this section, the fact that the property is or has been the site of a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine is not material to the transaction if:

(a) All materials and substances involving methamphetamine have been removed from or remediated on the property by an entity certified or licensed to do so; or

(b) The property has been deemed safe for habitation by a governmental entity.

7. As used in this section, "facility for transitional living for released offenders" has the meaning ascribed to it in NRS 449.0055.

- NEV. REV. STAT. ANN. § 489.776 (West 2007): 1. Except as otherwise provided in this section and unless required to make a disclosure pursuant to NRS 40.770, if a manufactured home, mobile home or commercial coach is or has been the site of a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine, a transferor or his agent who has actual knowledge of such information shall disclose the information to a transferee or his agent.

  2. The disclosure described in subsection 1 is not required if:

  (a) All materials and substances involving methamphetamine have been removed from or remediated on the manufactured home, mobile home or commercial coach by an entity certified or licensed to do so; or

  (b) The manufactured home, mobile home or commercial coach has been deemed safe for habitation by a governmental entity.

  3. The disclosure described in subsection 1 is not required for any sale or other transfer or intended sale or other transfer of a manufactured home, mobile home or commercial coach by a transferor:

  (a) To any co-owner of the manufactured home, mobile home or commercial coach, the spouse of the transferor or a person related within the third degree of consanguinity to the transferor; or

  (b) If the transferor is a dealer and this is the first sale or transfer of a new manufactured home, mobile home or commercial coach.

  4. The Division may adopt regulations to carry out the provisions of this section.

NEW HAMPSHIRE

- N.H. REV. STAT. ANN. § 318-D:4 (2008): Any sale, transfer, lease, or rental of real property on which methamphetamine has been produced shall be subject to the provisions of RSA 477:4-g.

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

- N.H. REV. STAT. ANN. § 477:4-g (2008): In any purchase and sale agreement, lease agreement, or rental agreement before signing an agreement to sell, transfer, lease, or rent real property for the time period after any conduct prohibited under RSA 318-D has occurred on such property and prior to the determination by the department of environmental services, pursuant to paragraph II, that the property meets remediation cleanup standards:

  (a) The seller, transferor, lessor, or owner shall disclose in writing to the buyer, transferee, lessee, or occupant if, to the seller's, transferor's, lessor's or owner's knowledge, methamphetamine production has occurred on the property.

  (b) If methamphetamine production has occurred on the property, the disclosure shall include a statement to the buyer, transferee, lessee, or occupant informing the buyer, transferee, lessee, or occupant.

  II. The department of environmental services or any licensed environmental or hazardous substances removal specialist shall be responsible for determining that any property on which methamphetamine production has occurred, meets remediation cleanup standards established pursuant to rules adopted by the department under RSA 541-A. Prior to the establishment of rules, the determination shall be based on the best scientific methods available. The determination that the property meets remediation cleanup standards shall be public information available upon request from the department.

NEW JERSEY

- NOT FOUND

NEW MEXICO

- N.M. CODE R. § 20.4.5.11(J) (Weil 2008): The notice of contamination required by 20.4.5.10 NMAC shall contain the following in both English and Spanish or other appropriate tribal language.

  J. A statement that until remediation is complete, the owner or the owner's agent shall not sell, lease, rent, loan, assign, exchange, or otherwise transfer the residually contaminated portion of the property without providing notice of its existence as required by 20.4.5.13 NMAC.

- N.M. CODE R. § 20.4.5.13 (Weil 2008): A. An owner shall not sell, lease, rent, loan, assign, exchange or otherwise transfer the clandestine drug laboratory property unless the owner does the following:

(1) provides written notice to the purchaser, lessee, renter, borrower, assignee, exchange partner or other transferee, with a copy to the department's hazardous waste bureau, of the existence of the clandestine drug laboratory; and

(2) receives a written acknowledgment, and provides a copy to the department's hazardous waste bureau, that the notice was received by the purchaser, lessee, renter, borrower, assignee, exchange partner or other transferee.

B. A person other than the owner or the owner's agent may not enter, occupy, or use the clandestine drug laboratory or otherwise knowingly and intentionally violate the provisions of the notice of contamination until remediation of the residually contaminated portion of the property has taken place in accordance with 20.4.5.16 NMAC. Persons performing work for a law enforcement agency, the department, or a remediation firm are excepted from this prohibition.

NEW YORK

- NOT FOUND

NORTH CAROLINA

- NOT FOUND

NORTH DAKOTA

- NOT FOUND

OHIO

- NOT FOUND

OKLAHOMA

- OKLA. STAT. tit. 60, § 833 (2008): A. A seller of property located in this state shall deliver, or cause to be delivered, to the purchaser of such property one of the following:

  1. A written property disclaimer statement on a form established by rule by the Oklahoma Real Estate Commission which states that the seller:

  a. has never occupied the property and makes no disclosures concerning the condition of the property, and

  b. has no actual knowledge of any defect; or

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

2. A written property condition disclosure statement on a form established by rule by the Oklahoma Real Estate Commission which shall include the information set forth in subsection B of this section.

B. 1. The disclosure statement shall include an identification of items and improvements which are included in the sale of the property and whether such items or improvements are in normal working order. The disclosures required shall also include a statement of whether the seller has actual knowledge of defects or information in relation to the following:

a. water and sewer systems, including the source of household water, water treatment systems, sprinkler systems, occurrence of water in the heating and air conditioning ducts, water seepage or leakage, drainage or grading problems and flood zone status,

b. structural systems, including the roof, walls, floors, foundation and any basement,

c. plumbing, electrical, heating and air conditioning systems,

d. infestation or damage of wood-destroying organisms,

e. major fire or tornado damage,

f. land use matters,

g. existence of hazardous or regulated materials and other conditions having an environmental impact,

h. existence of prior manufacturing of methamphetamine,

i. any other defects known to the seller, and

j. other matters the Oklahoma Real Estate Commission deems appropriate.

2. The disclosure statement shall include the following notices to the purchaser in bold and conspicuous type:

a. "The information and statements contained in this disclosure statement are declarations and representations of the seller and are not the representations of the real estate licensee.",

b. "The information contained in this disclosure statement is not intended to be a part of

any contract between the purchaser and the seller.", and

c. "The declarations and information contained in this disclosure statement are not warranties, express or implied of any kind, and are not a substitute for any inspections or warranties the purchaser may wish to obtain."

C. Either the disclaimer statement or the disclosure statement required by this section must be completed, signed and dated by the seller. The date of completion on either statement may not be more than one hundred eighty (180) days prior to the date of receipt of the statement by the purchaser.

D. The Oklahoma Real Estate Commission shall develop by rule the forms for the residential property condition disclaimer and the residential property condition disclosure statement. After development of the initial forms, the Oklahoma Real Estate Commission may amend by rule the forms as is necessary and appropriate.

Such forms shall be made available upon request irrespective of whether the person requesting a disclaimer or disclosure form is represented by a real estate licensee.

OREGON

- OR. REV. STAT. ANN. § 453.870 (2007): (1) Any property that is not fit for use as determined under ORS 453.876 may be transferred or sold if full, written disclosure, as required by rules of the Department of Human Services, is made to the prospective purchaser, attached to the earnest money receipt, if any, and shall accompany but not be a part of the sale document nor be recorded. However, such property shall continue to be subject to the provisions of ORS 453.876, regardless of transfer or sale under this section.

  (2) Any transferee or purchaser who does not receive the notice described in subsection (1) of this section may set aside the transfer or sale as voidable and bring suit to recover damages for any losses incurred because of the failure to give such notice.

  (3) The transferor or seller of any property described in subsection (1) of this section shall notify the department of the transfer or sale as required by rule of the department.

- OR. REV. STAT. ANN. § 822.046 (2007): (1) As used in this section, "controlled substance" means a drug or its immediate precursor classified in Schedule I or II under the federal Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035.

  (2) A vehicle dealer shall inform a potential buyer if the dealer has received written notice that the vehicle to be sold to the buyer was used in the unlawful manufacture of

controlled substances prior to sale to the buyer. Disclosure shall be in writing and shall be made to the buyer and to any lender financing the purchase of the vehicle prior to completion of the sale. Unless the vehicle is found fit for use under ORS 453.885, the dealer shall also post a notice on the vehicle stating that the vehicle was used in the unlawful manufacture of controlled substances.

- OR. ADMIN. R. § 333-040-0100 (2008): (1) An owner of unfit for use property may transfer or sell the property before a Certificate of Fitness is issued if the owner provides full written disclosure to the buyer or transferee. The owner shall attach the disclosure statement to the earnest money receipt, if any, or otherwise attach the disclosure statement to the sale or transfer document for each transaction, and shall, at a minimum, include each of the following:

  (a) A verbatim statement as follows: "The property in this transaction has been determined to be an illegal drug manufacturing site and cannot be rented, leased, entered or used for any reason without first being issued a Certificate of Fitness by the Oregon Health Division." The statement shall be in 10-point, bold type or equivalent;

  (b) A brief description of the property including street address and legal description;

  (c) A brief description of the kind and location of all drug manufacturing activities on the property if known;

  (d) The name and address of the owner of record, the name and address of the buyer/recipient, and the date of the transfer;

  (e) The name of the agency that determined the property was unfit for use;

  (f) The address and telephone number of the agency that made the above determination; and

  (g) A photocopy of the written notice of determination as issued by the determining agency listed in ORS 453.876.

  (2) The owner shall provide a copy of the disclosure statement for each transaction to the Building Codes Division and the Oregon Health Division within 10 days of the closing of the sale or transfer.

PENNSYLVANIA

- NOT FOUND

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

RHODE ISLAND

- NOT FOUND

SOUTH CAROLINA

- NOT FOUND

SOUTH DAKOTA

- S.D. CODIFIED LAWS § 43-4-38 (2008): The seller of residential real property shall furnish to a buyer a completed copy of the disclosure statement before the buyer makes a written offer. If after delivering the disclosure statement to the buyer or the buyer's agent and prior to the date of closing for the property or the date of possession of the property, whichever comes first, the seller becomes aware of any change of material fact which would affect the disclosure statement, the seller shall furnish a written amendment disclosing the change of material fact.

- S.D. CODIFIED LAWS § 43-4-44 (2008) (as amended by 2008 S.B. 97):

  SELLER'S PROPERTY CONDITION DISCLOSURE STATEMENT

  (This disclosure shall be completed by the seller. This is a disclosure required by law. If you do not understand this form, seek legal advice.)
  Seller

  _____

  Property Address

  _____

  _____

  This Disclosure Statement concerns the real property identified above situated in the City of _____ County of _____, State of South Dakota.
  THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH § 43-4-38. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER OR ANY AGENT REPRESENTING ANY PARTY IN THIS TRANSACTION AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PARTIES MAY WISH TO OBTAIN. Seller hereby authorizes any agent representing any party in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.
  IF ANY MATERIAL FACT CHANGES BEFORE CONVEYANCE OF TITLE TO THIS PROPERTY, THE SELLER MUST DISCLOSE SUCH MATERIAL FACT WITH A WRITTEN AMENDMENT TO THIS DISCLOSURE STATEMENT.
  I. LOT OR TITLE INFORMATION

Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

1. When did you purchase or build the home? _____

If the answer is yes to any of the following, please explain under additional comments or on an attached separate sheet.
2. Were there any title problems when you purchased the property?
Yes ___ No ___
3. Are there any recorded liens or financial instruments against the property, other than a first mortgage?

Yes ___ No ___
4. Are there any unrecorded liens or financial instruments against the property, other than a first mortgage; or have any materials or services been provided in the past one hundred twenty days that would create a lien against the property under chapter 44-9?

Yes ___ No ___ Unknown ___
5. Are there any easements which have been granted in connection with the property (other than normal utility easements for public water and sewer, gas and electric service, telephone service, cable television service, drainage, and sidewalks)?
Yes ___ No ___ Unknown ___
6. Are there any problems related to establishing the lot lines/ boundaries?
Yes ___ No ___ Unknown ___
7. Do you have a location survey in your possession or a copy of the recorded plat? If yes, attach a copy.
Yes ___ No ___ Unknown ___
8. Are you aware of any encroachments or shared features, from or on adjoining property (i.e. fences, driveway, sheds, outbuildings, or other improvements)?
Yes ___ No ___
9. Are you aware of any covenants or restrictions affecting the use of the property in accordance with local law? If yes, attach a copy of the covenants and restrictions.
Yes ___ No ___
10. Are you aware of any current or pending litigation, foreclosure, zoning, building code or restrictive covenant violation notices, mechanic's liens, judgments, special assessments, zoning changes, or changes that could affect your property?
Yes ___ No ___
11. Is the property currently occupied by the owner?
Yes ___ No ___
12. Does the property currently receive the owner occupied tax reduction pursuant to SDCL 10-13-39?

Yes ___ No ___
13. Is the property currently part of a property tax freeze for any reason?
Yes ___ No ___ Unknown ___
14. Is the property leased?
Yes ___ No ___
15. If leased, does the property use comply with local zoning laws?
Yes ___ No ___
16. Does this property or any portion of this property receive rent? If yes, how much $____ and how often ____?
Yes ___ No ___
17. Do you pay any mandatory fees or special assessments to a homeowners' or condominium association?

Yes ___ No ___
If yes, what are the fees or assessments? $____ per ____ (i.e. annually, semi-annually, monthly)
Payable to whom:
_____
For what purpose?
_____
18. Are you aware if the property has ever had standing water in either the front, rear, or side yard more than forty-eight hours after heavy rain?
Yes ___ No ___
19. Is the property located in or near a flood plain?
Yes ___ No ___ Unknown ___
20. Are wetlands located upon any part of the property?
Yes ___ No ___ Unknown ___
II. STRUCTURAL INFORMATION

If the answer is yes to any of the following, please explain under additional comments or on an attached separate sheet.

1. Are you aware of any water penetration problems in the walls, windows, doors, basement, or crawl space?

Yes ___ No ___

2. What water damage related repairs, if any, have been made?

If any, when?

_____

3. Are you aware if drain tile is installed on the property?

Yes ___ No ___

4. Are you aware of any interior cracked walls or floors, or cracks or defects in exterior driveways, sidewalks, patios, or other hard surface areas?

Yes ___ No ___

What related repairs, if any, have been made?

_____

5. Are you aware of any roof leakage, past or present?
Yes ___ No ___
Type of roof covering:

_____

Age:

_____

What roof repairs, if any, have been made, when and by whom? _____
Describe any existing unrepaired damage to the roof: _____
6. Are you aware of insulation in:
the ceiling/attic? Yes ___ No ___
the walls? Yes ___ No ___
the floors? Yes ___ No ___
7. Are you aware of any pest infestation or damage, either past or present?
Yes ___ No ___
8. Are you aware of the property having been treated for any pest infestation or damage?
Yes ___ No ___
If yes, who treated it and when? _____
9. Are you aware of any work upon the property which required a building, plumbing, electrical, or any other permit?
Yes ___ No ___
If yes, describe the work: _____
Was a permit obtained?
Yes_____
Was the work approved by an inspector? Yes ___ No ___
10. Are you aware of any past or present damage to the property (i.e. fire, smoke, wind, floods, hail, or snow)?
Yes ___ No ___
If yes, describe

Have any insurance claims been made?
Yes ___ No ___ Unknown ___
Was an insurance payment received?
Yes ___ No ___ Unknown ___
Has the damage been repaired?
Yes ___ No ___
If yes, describe in detail:

11. Are you aware of any problems with sewer blockage or backup, past or present?
Yes ___ No ___
12. Are you aware of any drainage, leakage, or runoff from any sewer, septic tank, storage tank, or drain on the property into any adjoining lake, stream, or waterway?
Yes ___ No ___
If yes, describe in detail:

III. SYSTEMS/UTILITIES INFORMATION

	INCLUDED	NONE/NOT WORKING	NOT WORKING
1. 220 Volt Service	_____	_____	_____
2. Air Exchanger	_____	_____	_____
3. Air Purifier	_____	_____	_____
4. Attic Fan	_____	_____	_____
5. Burglar Alarm and Security System	_____	_____	_____
6. Ceiling Fan	_____	_____	_____
7. Central Air--Electric	_____	_____	_____
8. Central Air--Water Cooled	_____	_____	_____
9. Cistern	_____	_____	_____
10. Dishwasher	_____	_____	_____
11. Disposal	_____	_____	_____
12. Doorbell	_____	_____	_____
13. Fireplace	_____	_____	_____
14. Fireplace Insert	_____	_____	_____
15. Garage Door/Opener Control(s)	_____	_____	_____
16. Garage Wiring	_____	_____	_____
17. Heating System	_____	_____	_____

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

18. Hot Tub, Whirlpool, and Controls	_____	_____	_____
19. Humidifier	_____	_____	_____
20. Intercom	_____	_____	_____
21. Light Fixtures	_____	_____	_____
22. Microwave/Hood	_____	_____	_____
23. Plumbing and Fixtures	_____	_____	_____
24. Pool and Equipment	_____	_____	_____
25. Propane Tank	_____	_____	_____
26. Radon System	_____	_____	_____
27. Sauna	_____	_____	_____
28. Septic/Leaching Field	_____	_____	_____
29. Sewer Systems/Drains	_____	_____	_____
30. Smoke/Fire Alarm	_____	_____	_____
31. Solar House--Heating	_____	_____	_____
32. Sump Pump(s)	_____	_____	_____
33. Switches and Outlets	_____	_____	_____
34. Underground Sprinkler and Heads	_____	_____	_____
35. Vent Fan	_____	_____	_____
36. Water Heater--Electric or Gas	_____	_____	_____
37. Water Purifier	_____	_____	_____
38. Water Softener--Leased or Owned	_____	_____	_____
39. Well and Pump	_____	_____	_____
40. Wood Burning Stove	_____	_____	_____

IV. HAZARDOUS CONDITIONS

Are you aware of any existing hazardous conditions of the property and are you aware of any tests having been performed?

	EXISTING CONDITIONS		TESTS PERFORMED	
	YES	NO	YES	NO
1. Methane Gas	_____	_____	_____	_____
2. Lead Paint	_____	_____	_____	_____
3. Radon Gas (House)	_____	_____	_____	_____
4. Radon Gas (Well)	_____	_____	_____	_____
5. Radioactive Materials	_____	_____	_____	_____
6. Landfill, Mineshaft	_____	_____	_____	_____
7. Expansive Soil	_____	_____	_____	_____
8. Mold	_____	_____	_____	_____
9. Toxic Materials	_____	_____	_____	_____

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

10. Urea Formaldehyde Foam Insulations	_____	_____	_____	_____
11. Asbestos Insulation	_____	_____	_____	_____
12. Buried Fuel Tanks	_____	_____	_____	_____
13. Chemical Storage Tanks	_____	_____	_____	_____
14. Fire Retardant Treated Plywood	_____	_____	_____	_____
15. Production of Methamphetamines	_____	_____	_____	_____

If the answer is yes to any of the questions above, please explain in additional comments or on an attached separate sheet.

V. MISCELLANEOUS INFORMATION

1. Is the street or road located at the end of the driveway to the property public or private?
Public _____ Private _____
2. Is there a written road maintenance agreement?
If yes, attach a copy of the maintenance agreement.
Yes _____ No _____
3. When was the fireplace/wood stove/chimney flue last cleaned?
_____
4. Within the previous twelve months prior to signing this document, are you aware of any of the following occurring on the subject property ?
a. A human death by homicide or suicide? If yes, explain:
_____
Yes _____ No _____
b. Other felony committed against the property or a person on the property? If yes, explain:_____
Yes _____ No _____
5. Is the water source public or private (select one)?
6. If private, what is the date and result of the last water test?
_____
7. Is the sewer system public _____ or private _____ (select one)?
8. If private, what is the date of the last time the septic tank was pumped? _____
9. Are there broken window panes or seals?
Yes _____ No _____
If yes, specify: _____
10. Are there any items attached to the property that will not be left, such as: towel bars, mirrors, swag lamps and hooks, curtain rods, window coverings, light fixtures, clothes lines, swing sets, storage sheds, ceiling fans, basketball hoops, mail boxes, etc.
Yes _____ No _____
If yes, please list _____
11. Are you aware of any other material facts or problems that have not been disclosed on this form?

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

Yes _____ No _____
If yes, explain: _____
VI. ADDITIONAL COMMENTS (ATTACH ADDITIONAL PAGES IF NECESSARY)
_____
_____

CLOSING SECTION

The Seller hereby certifies that the information contained herein is true and correct to the best of the Seller's information, knowledge, and belief as of the date of the Seller's signature below. If any of these conditions change before conveyance of title to this property, the change will be disclosed in a written amendment to this disclosure statement.

SELLER _____ DATE _____

SELLER _____ DATE _____

THE SELLER AND THE BUYER MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND INSPECTIONS OF THE PROPERTY TO OBTAIN A TRUE REPORT AS TO THE CONDITION OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN ANY CONTRACT OF SALE AS NEGOTIATED BETWEEN THE SELLER AND THE BUYER WITH RESPECT TO SUCH PROFESSIONAL ADVICE AND INSPECTIONS.

I/We acknowledge receipt of a copy of this statement on the date appearing beside my/our signature(s) below. Any agent representing any party to this transaction makes no representations and is not responsible for any conditions existing in the property.

BUYER _____ DATE _____

BUYER _____ DATE _____

- S.D. CODIFIED LAWS § 43-32-30 (2008): In any hiring of a residential premises, any lessor who has actual knowledge of the existence of any prior manufacturing of methamphetamines on the premises shall disclose that information to any lessee or any person who may become a lessee. If the residential premises consists of two or more

housing units, the disclosure requirements provided by this section only apply to the unit where there is knowledge of the existence of any prior manufacturing of methamphetamines.

TENNESSEE

- NOT FOUND

TEXAS

- NOT FOUND

UTAH

- NOT FOUND

VERMONT

- NOT FOUND

VIRGINIA

- NOT FOUND

WASHINGTON

- WASH. REV. CODE ANN. § 64.06.020 (West 2008): (1) In a transaction for the sale of residential property, the seller shall, unless the buyer has expressly waived the right to receive the disclosure statement, or unless the transfer is exempt under RCW 64.06.010, deliver to the buyer a completed seller disclosure statement in the following format and that contains, at a minimum, the following information…has the property been used as an illegal drug manufacturing site.

  INSTRUCTIONS TO THE SELLER

  Please complete the following form. Do not leave any spaces blank. If the question clearly does not apply to the property write "NA." If the answer is "yes" to any * items, please explain on attached sheets. Please refer to the line number(s) of the question(s) when you provide your explanation(s). For your protection you must date and sign each page of this disclosure statement and each attachment. Delivery of the disclosure statement must occur not later than five business days, unless otherwise agreed, after mutual acceptance of a written contract to purchase between a buyer and a seller.

  NOTICE TO THE BUYER

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

HE FOLLOWING DISCLOSURES ARE MADE BY SELLER ABOUT THE CONDITION OF THE PROPERTY LOCATED AT.....

("THE PROPERTY"), OR AS LEGALLY DESCRIBED ON ATTACHED EXHIBIT A.

SELLER MAKES THE FOLLOWING DISCLOSURES OF EXISTING MATERIAL FACTS OR MATERIAL DEFECTS TO BUYER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS YOU AND SELLER OTHERWISE AGREE IN WRITING, YOU HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO YOU TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. IF THE SELLER DOES NOT GIVE YOU A COMPLETED DISCLOSURE STATEMENT, THEN YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

THE FOLLOWING ARE DISCLOSURES MADE BY SELLER AND ARE NOT THE REPRESENTATIONS OF ANY REAL ESTATE LICENSEE OR OTHER PARTY. THIS INFORMATION IS FOR DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY WRITTEN AGREEMENT BETWEEN BUYER AND SELLER.

FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS PROPERTY YOU ARE ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF QUALIFIED EXPERTS TO INSPECT THE PROPERTY, WHICH MAY INCLUDE, WITHOUT LIMITATION, ARCHITECTS, ENGINEERS, LAND SURVEYORS, PLUMBERS, ELECTRICIANS, ROOFERS, BUILDING INSPECTORS, ON-SITE WASTEWATER TREATMENT INSPECTORS, OR STRUCTURAL PEST INSPECTORS. THE PROSPECTIVE BUYER AND SELLER MAY WISH TO OBTAIN PROFESSIONAL ADVICE OR INSPECTIONS OF THE PROPERTY OR TO PROVIDE APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN THEM WITH RESPECT TO ANY ADVICE, INSPECTION, DEFECTS OR WARRANTIES.

Seller .... is/ .... is not occupying the property.

I. SELLER'S DISCLOSURES:

*If you answer "Yes" to a question with an asterisk (*), please explain your answer and attach documents, if available and not otherwise publicly recorded. If necessary, use an attached sheet.

Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

1. TITLE

[ ] Yes [ ] No [ ] Don't know A. Do you have legal authority to sell the property? If no, please explain.

[ ] Yes [ ] No [ ] Don't know *B. Is title to the property subject to any of the following?

(1) First right of refusal
(2) Option
(3) Lease or rental agreement
(4) Life estate?

[ ] Yes [ ] No [ ] Don't know *C. Are there any encroachments, boundary agreements, or boundary disputes?

[ ] Yes [ ] No [ ] Don't know *D. Is there a private road or easement agreement for access to the property?

[ ] Yes [ ] No [ ] Don't know *E. Are there any right-of-way, easements, or access limitations that may affect the Buyer's use of the property?

[ ] Yes [ ] No [ ] Don't know *F. Are there any written agreements for joint maintenance of an easement or right-of-way?

[ ] Yes [ ] No [ ] Don't know *G. Is there any study, survey project, or notice that would adversely affect the property?

[ ] Yes [ ] No [ ] Don't know *H. Are there any pending or existing assessments against the property?

[ ] Yes [ ] No [ ] Don't know *I. Are there any zoning violations, nonconforming uses, or any unusual restrictions on the property that would affect future construction or remodeling?

[ ] Yes [ ] No [ ] Don't know *J. Is there a boundary survey for the property?

[ ] Yes [ ] No [ ] Don't know *K. Are there any covenants, conditions, or restrictions which affect the property?

2. WATER

A. Household Water

(1) The source of water for the property is:
[ ] Private or publicly owned water system
[ ] Private well serving only the subject property .....
*[ ] Other water system

[ ] Yes [ ] No [ ] Don't know *If shared, are there any written

agreements?
[ ] Yes [ ] No [ ] Don't know *(2) Is there an easement (recorded or unrecorded) for access to and/or maintenance of the water source?
[ ] Yes [ ] No [ ] Don't know *(3) Are there any known problems or repairs needed?
[ ] Yes [ ] No [ ] Don't know (4) During your ownership, has the source provided an adequate year-round supply of potable water? If no, please explain.
[ ] Yes [ ] No [ ] Don't know *(5) Are there any water treatment systems for the property? If yes, are they [ ] Leased [ ] Owned
[ ] Yes [ ] No [ ] Don't know *(6) Are there any water rights for the property associated with its domestic water supply, such as a water right permit, certificate, or claim?
[ ] Yes [ ] No [ ] Don't know (a) If yes, has the water right permit, certificate, or claim been assigned, transferred, or changed?
(b) If yes, has all or any portion of the water right not been used for five or more successive years? (If yes, please explain.)
.....

B. Irrigation Water

[ ] Yes [ ] No [ ] Don't know (1) Are there any irrigation water rights for the property, such as a water right permit, certificate, or claim?
[ ] Yes [ ] No [ ] Don't know *(a) If yes, has all or any portion of the water right not been used for five or more successive years?
[ ] Yes [ ] No [ ] Don't know *(b) If so, is the certificate available? (If yes, please attach a copy.)
[ ] Yes [ ] No [ ] Don't know (c) If so, has the water right permit, certificate, or claim been assigned, transferred, or changed? If so, explain:
.....
[ ] Yes [ ] No [ ] Don't know (2) Does the property receive irrigation water from a ditch company, irrigation district, or other entity? If so, please identify the entity that supplies water to

the property:
.....
C. Outdoor Sprinkler System
[ ] Yes [ ] No [ ] Don't know (1) Is there an outdoor sprinkler system for the property?
[ ] Yes [ ] No [ ] Don't know (2) If yes, are there any defects in the system? .....
[ ] Yes [ ] No [ ] Don't know *(3) If yes, is the sprinkler system connected to irrigation water?

3. SEWER/ON-SITE SEWAGE SYSTEM
A. The property is served by:
[ ] Public sewer system,
[ ] On-site sewage system (including pipes, tanks, drainfields, and all other component parts)
[ ] Other disposal system, please describe:
.....
[ ] Yes [ ] No [ ] Don't know B. If public sewer system service is available to the property, is the house connected to the sewer main? If no, please explain.
.....
[ ] Yes [ ] No [ ] Don't know C. Is the property subject to any sewage system fees or charges in addition to those covered in your regularly billed sewer or on-site sewage system maintenance service?
D. If the property is connected to an on-site sewage system:
[ ] Yes [ ] No [ ] Don't know *(1) Was a permit issued for its construction, and was it approved by the local health department or district following its construction?
(2) When was it last pumped:
.....
[ ] Yes [ ] No [ ] Don't know *(3) Are there any defects in the operation of the on-site sewage system?
[ ] Don't know (4) When was it last inspected?
.....
By Whom: .....
[ ] Don't know (5) For how many bedrooms was the on-site sewage system approved?

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

..... bedrooms
[ ] Yes [ ] No [ ] Don't know E. Are all plumbing fixtures, including laundry drain, connected to the sewer/on-site sewage system? If no, please explain: .....
[ ] Yes [ ] No [ ] Don't know *F. Have there been any changes or repairs to the on-site sewage system?
[ ] Yes [ ] No [ ] Don't know G. Is the on-site sewage system, including the drainfield, located entirely within the boundaries of the property? If no, please explain.
.....
[ ] Yes [ ] No [ ] Don't know H. Does the on-site sewage system require monitoring and maintenance services more frequently than once a year? If yes, please explain.
.....

NOTICE: IF THIS RESIDENTIAL REAL PROPERTY DISCLOSURE STATEMENT IS BEING COMPLETED FOR NEW CONSTRUCTION WHICH HAS NEVER BEEN OCCUPIED, THE SELLER IS NOT REQUIRED TO COMPLETE THE QUESTIONS LISTED IN ITEM 4. STRUCTURAL OR ITEM 5. SYSTEMS AND FIXTURES

4. STRUCTURAL
[ ] Yes [ ] No [ ] Don't know *A. Has the roof leaked?

[ ] Yes [ ] No [ ] Don't know *B. Has the basement flooded or leaked?

[ ] Yes [ ] No [ ] Don't know *C. Have there been any conversions, additions, or remodeling?

[ ] Yes [ ] No [ ] Don't know *(1) If yes, were all building permits obtained?
[ ] Yes [ ] No [ ] Don't know *(2) If yes, were all final inspections obtained?
[ ] Yes [ ] No [ ] Don't know D. Do you know the age of the house? If yes, year of original construction:
.....
[ ] Yes [ ] No [ ] Don't know *E. Has there been any settling, slippage, or sliding of the property or its improvements?
[ ] Yes [ ] No [ ] Don't know *F. Are there any defects with the following: (If

yes, please check applicable items and explain.)

[ ] Foundations	[ ] Decks	[ ] Exterior Walls
[ ] Chimneys	[ ] Interior Walls	[ ] Fire Alarm
[ ] Doors	[ ] Windows	[ ] Patio
[ ] Ceilings	[ ] Slab Floors	[ ] Driveways
[ ] Pools	[ ] Hot Tub	[ ] Sauna
[ ] Sidewalks	[ ] Outbuildings	[ ] Fireplaces
[ ] Garage Floors	[ ] Walkways	[ ] Siding
[ ] Other	[ ] Wood Stoves	

[ ] Yes [ ] No [ ] Don't know *G. Was a structural pest or "whole house" inspection done? If yes, when and by whom was the inspection completed? .....

[ ] Yes [ ] No [ ] Don't know H. During your ownership, has the property had any wood destroying organism or pest infestation?

[ ] Yes [ ] No [ ] Don't know I. Is the attic insulated?

[ ] Yes [ ] No [ ] Don't know J. Is the basement insulated?

5. SYSTEMS AND FIXTURES

*A. If any of the following systems or fixtures are included with the transfer, are there any defects? If yes, please explain.

[ ] Yes [ ] No [ ] Don't know Electrical system, including wiring, switches, outlets, and service

[ ] Yes [ ] No [ ] Don't know Plumbing system, including pipes, faucets, fixtures, and toilets

[ ] Yes [ ] No [ ] Don't know Hot water tank

[ ] Yes [ ] No [ ] Don't know Garbage disposal

[ ] Yes [ ] No [ ] Don't know Appliances

[ ] Yes [ ] No [ ] Don't know Sump pump

[ ] Yes [ ] No [ ] Don't know Heating and cooling systems

[ ] Yes [ ] No [ ] Don't know Security system

[ ] Owned [ ] Leased

Other .....

*B. If any of the following fixtures or property is included with the transfer, are they leased? (If yes, please attach copy of lease.)

[ ] Yes [ ] No [ ] Don't know Security system .....

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[ ] Yes [ ] No [ ] Don't know Tanks (type): .....
[ ] Yes [ ] No [ ] Don't know Satellite dish .....
Other: .....

6. HOMEOWNERS' ASSOCIATION/COMMON INTERESTS

[ ] Yes [ ] No [ ] Don't know A. Is there a Homeowners' Association? Name of Association
.....
[ ] Yes [ ] No [ ] Don't know B. Are there regular periodic assessments:
$... per [ ] Month [ ] Year
[ ] Other .....
[ ] Yes [ ] No [ ] Don't know *C. Are there any pending special assessments?
[ ] Yes [ ] No [ ] Don't know *D. Are there any shared "common areas" or any joint maintenance agreements (facilities such as walls, fences, landscaping, pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)?

7. ENVIRONMENTAL

[ ] Yes [ ] No [ ] Don't know *A. Have there been any drainage problems on the property?
[ ] Yes [ ] No [ ] Don't know *B. Does the property contain fill material?
[ ] Yes [ ] No [ ] Don't know *C. Is there any material damage to the property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?
[ ] Yes [ ] No [ ] Don't know D. Are there any shorelines, wetlands, floodplains, or critical areas on the property?
[ ] Yes [ ] No [ ] Don't know *E. Are there any substances, materials, or products on the property that may be environmental concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water?
[ ] Yes [ ] No [ ] Don't know *F. Has the property been used for commercial or industrial purposes?
[ ] Yes [ ] No [ ] Don't know *G. Is there any soil or groundwater contamination?
[ ] Yes [ ] No [ ] Don't know *H. Are there transmission poles, transformers, or other utility equipment installed, maintained, or buried on the property?
[ ] Yes [ ] No [ ] Don't know *I. Has the property been used as a legal or

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

illegal dumping site?
[ ] Yes [ ] No [ ] Don't know *J. Has the property been used as an illegal drug manufacturing site?
[ ] Yes [ ] No [ ] Don't know *K. Are there any radio towers in the area that may cause interference with telephone reception?

8. MANUFACTURED AND MOBILE HOMES
If the property includes a manufactured or mobile home,
[ ] Yes [ ] No [ ] Don't know *A. Did you make any alterations to the home? If yes, please describe the alterations:.....
[ ] Yes [ ] No [ ] Don't know *B. Did any previous owner make any alterations to the home? If yes, please describe the alterations: .....
[ ] Yes [ ] No [ ] Don't know *C. If alterations were made, were permits or variances for these alterations obtained?

9. FULL DISCLOSURE BY SELLERS
A. Other conditions or defects:
[ ] Yes [ ] No [ ] Don't know *Are there any other existing material defects affecting the property that a prospective buyer should know about?
B. Verification:
The foregoing answers and attached explanations (if any) are complete and correct to the best of my/our knowledge and I/we have received a copy hereof. I/we authorize all of my/our real estate licensees, if any, to deliver a copy of this disclosure statement to other real estate licensees and all prospective buyers of the property.

DATE ..... SELLER ..... SELLER .....

NOTICE TO THE BUYER

INFORMATION REGARDING REGISTERED SEX OFFENDERS MAY BE OBTAINED FROM LOCAL LAW ENFORCEMENT AGENCIES. THIS NOTICE IS INTENDED ONLY TO INFORM YOU OF WHERE TO OBTAIN THIS

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

INFORMATION AND IS NOT AN INDICATION OF THE PRESENCE OF REGISTERED SEX OFFENDERS.

II. BUYER'S ACKNOWLEDGMENT

A. Buyer hereby acknowledges that: Buyer has a duty to pay diligent attention to any material defects that are known to Buyer or can be known to Buyer by utilizing diligent attention and observation.

B. The disclosures set forth in this statement and in any amendments to this statement are made only by the Seller and not by any real estate licensee or other party.

C. Buyer acknowledges that, pursuant to RCW 64.06.050(2), real estate licensees are not liable for inaccurate information provided by Seller, except to the extent that real estate licensees know of such inaccurate information.

D. This information is for disclosure only and is not intended to be a part of the written agreement between the Buyer and Seller.

E. Buyer (which term includes all persons signing the "Buyer's acceptance" portion of this disclosure statement below) has received a copy of this Disclosure Statement (including attachments, if any) bearing Seller's signature.

DISCLOSURES CONTAINED IN THIS DISCLOSURE STATEMENT ARE PROVIDED BY SELLER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS BUYER AND SELLER OTHERWISE AGREE IN WRITING, BUYER SHALL HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS DISCLOSURE STATEMENT AND ACKNOWLEDGES THAT THE DISCLOSURES MADE HEREIN ARE THOSE OF THE SELLER ONLY, AND NOT OF ANY REAL ESTATE LICENSEE OR OTHER PARTY.

DATE ..... BUYER ..... BUYER .....

WEST VIRGINIA

DISCLOSURE REQUIRED BY SELLER, LESSOR, OR TRANSFEROR

- W. VA. CODE R. § 64-92-6 (2008): 6.1. A residential property owner who has been notified by a law enforcement agency of a clandestine drug laboratory on his or her property shall:

  6.1.a. Ensure the residential property remains unoccupied and secured until a certificate of remediation completion is issued for the property by the department or until the property is properly demolished and/or disposed; and

  6.1.b. Remediate the residential property in accordance with the provisions of this rule or demolish and/or dispose the residential property within thirty days of notification by a law enforcement agency.

  6.2. A residential property owner may delegate, in writing, the responsibilities for compliance with this section to a person who is responsible for the operation of the residential property or to the person who contracts for the remediation or demolition and/or disposal of the property.

  6.3. A residential property owner, seller or landlord shall disclose the certificate of remediation completion, issued by the department and acquired in accordance with subsection 9.2 of this rule, to any potential occupant of the residential property.

WISCONSIN

- NOT FOUND

WYOMING

- WYO. STAT. ANN. § 35-9-156(d) (2008): (d) The incident commander shall declare an incident ended when he has determined the threat to public health and safety has ended. Until the incident commander has declared the threat to public safety has ended the incident commander shall have the authority to issue an order on behalf of the political subdivision that any portion of the building, structure or land is uninhabitable, secure the portion of the building, structure or land that is uninhabitable and take appropriate steps to minimize exposure to identified or suspected contamination at the site or premise. If the subject of the site or premise is commercial real estate, the incident commander shall limit the declaration of uninhabitable to the areas affected by the clandestine laboratory operation and shall not declare the entire commercial real estate uninhabitable unless the entire commercial property has been documented and determined uninhabitable using the standards promulgated by the state emergency response commission under W.S. 35-9-153(h). The incident commander shall provide written notice to the commercial real estate owner, describing with specificity the extent of the commercial property deemed uninhabitable. Any property that is ordered uninhabitable under this subsection shall only

be transferred or sold prior to remediation if full, written disclosure is made to the prospective purchaser, attached to the earnest money receipt if any, and shall accompany the sale documents but not be a part of the deed nor shall it be recorded. The transferor or seller shall notify the incident commander of the transfer or sale within ten (10) days of the transfer or sale.

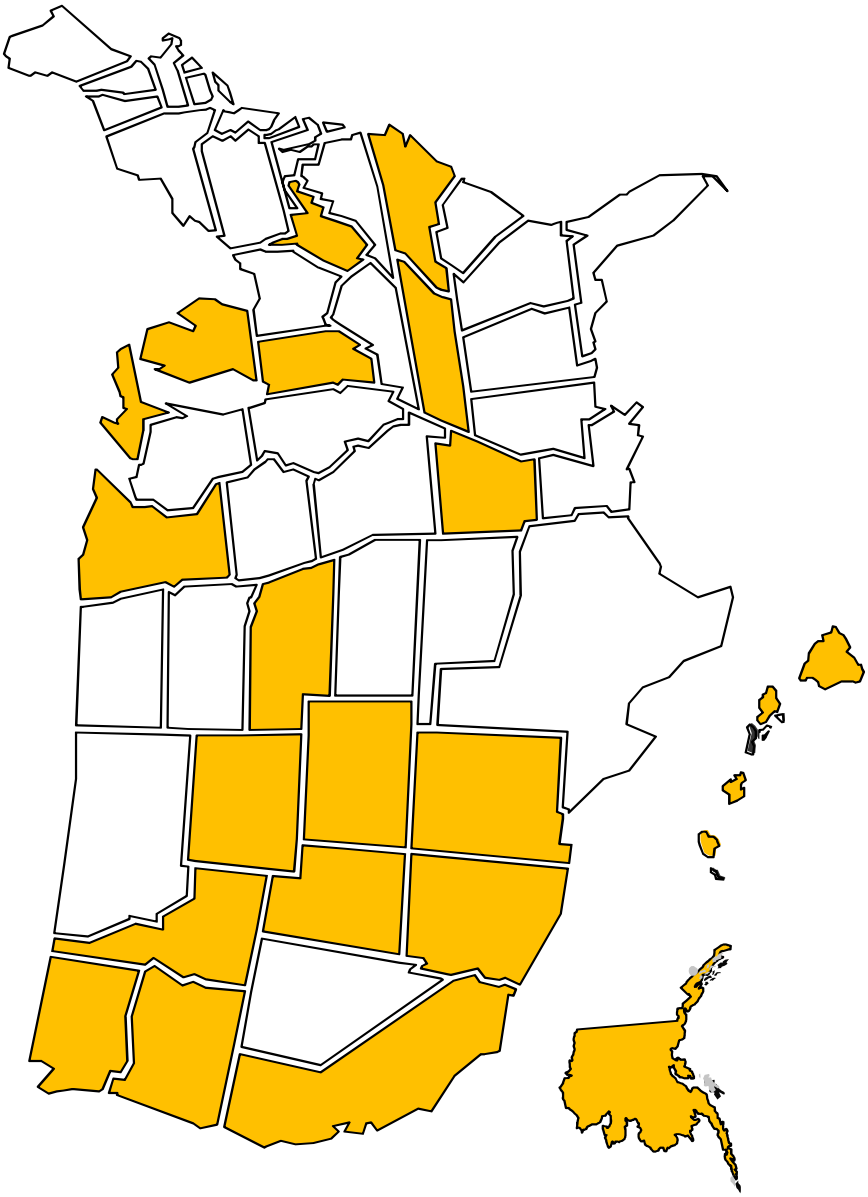
PROPERTY USE RESTRICTIONS & EXCEPTIONS TO RESTRICTIONS

In an effort to protect the health and safety of the community, some states require that contaminated property remains vacant and may not be transferred, sold, leased or rented from the time the owner is notified of the discovery of a lab until the owner has received certification or notification that the property meets state remediation standards.

Some states have carved out exceptions to the restrictions on the property. These exceptions include, but are not limited to: (1) allowing the owner, landlord or manager to enter the residually contaminated portion of the property; (2) permitting persons trained or certified to handle, test, inspect and evaluate contaminated property pursuant to state, local and federal law(s) on the premises; and (3) authorizing the transfer or sale of property if full written disclosure is made to the prospective transferee or purchaser that the property has been determined to be an illegal drug manufacturing site and has not been determined to be remediated to state standards.

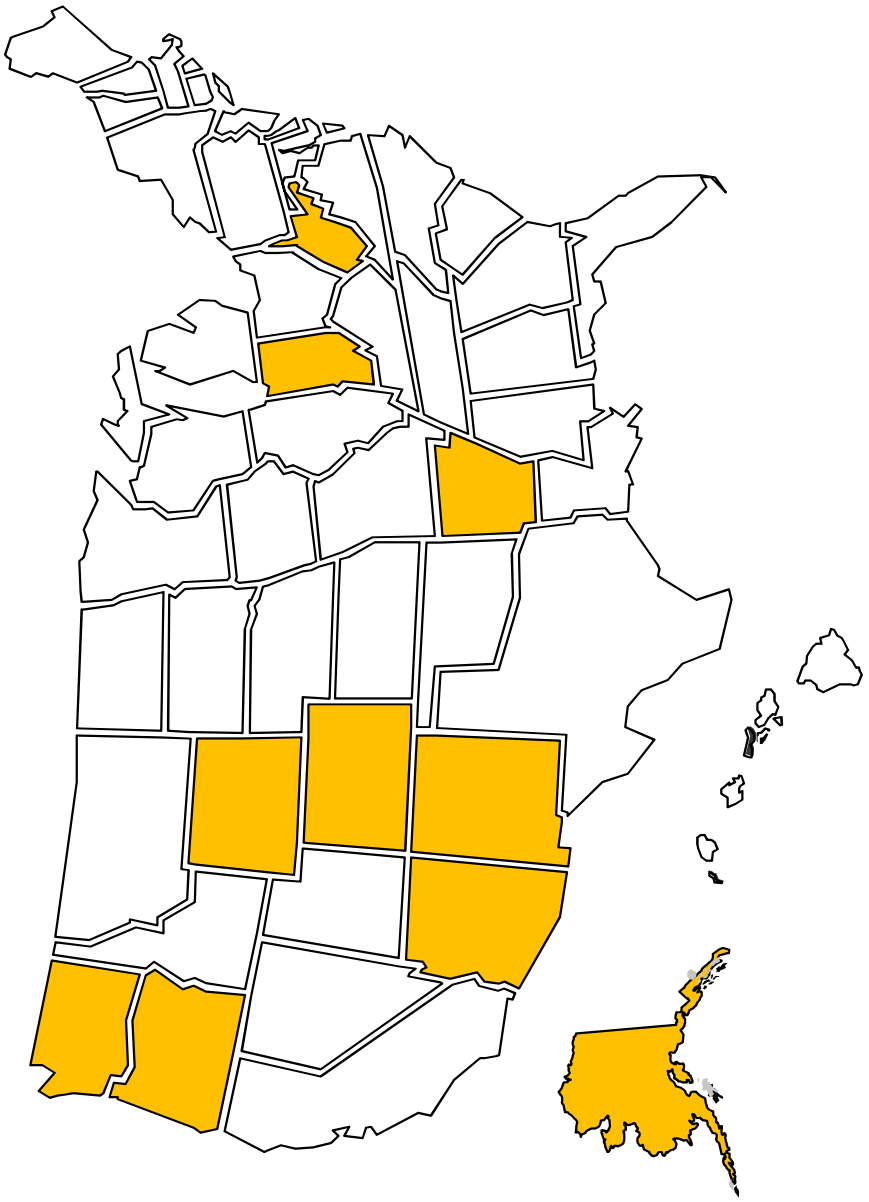
Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

STATES WITH STATUTES, REGULATIONS OR GUIDELINES THAT RESTRICT THE USE OF CONTAMINATED PROPERTY



Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

STATES WITH STATUTES, REUGLATIONS OR GUIDELINES THAT PROVIDE EXCEPTION(S) TO PROPERTY USE RESTRICTIONS



PROPERTY USE RESTRICTIONS & EXCEPTIONS TO RESTRICTIONS

ALABAMA

- NOT FOUND

ALASKA

Property Use Restrictions

- ALASKA STAT. § 46.03.510 (2008): (a) Until determined to be fit for use under AS 46.03.550, the property for which a notice has been issued under AS 46.03.500(a) may not be transferred, sold, leased, or rented to another person except as provided in (b) of this section, and a person may not use or occupy the property at any time after the fourth day following the day on which the property was posted with the notice required under AS 46.03.500(d), except as necessary for sampling, testing, or decontamination under AS 46.03.520 and 46.03.540. An oral or written contract that would transfer, sell, lease, rent, or otherwise allow the use of the property in violation of this subsection is voidable between the parties at the option of the purchaser, transferee, user, lessee, or renter. However, this subsection does not

  (1) make voidable a promissory note or other evidence of indebtedness or a mortgage, trust deed, or other security interest securing the promissory note or evidence of indebtedness, if the note or evidence of indebtedness, mortgage, trust deed, or other security interest was given to a person other than the person transferring, selling, using, leasing, or renting the property to induce the person to finance the transfer, sale, use, leasing, or rental of the property;

  (2) make voidable a lease or rental agreement between the property owner and the person who caused the property to be contaminated and determined unfit for use; or

  (3) impair obligations or duties required to be performed on termination of a contract, as required by the contract, such as payment of damages or return of refundable deposits.

  (b) Notwithstanding (a) of this section, property covered by (a) of this section may be transferred or sold if full written disclosure is made to the prospective transferee or purchaser that the property has been determined to be an illegal drug manufacturing site and the property has not been determined to be fit for use. The disclosure shall be attached to the earnest money receipt, if any, and shall accompany the transfer or sale document. The disclosure is not considered to be part of the transfer or sale document, however, and may not be recorded. The property shall continue to be subject to the restrictions in (a) of this section after transfer or sale under this subsection.

  (c) A person who knowingly transfers, sells, leases, or rents property to another, knowingly allows another to use or occupy property, or, being the owner of property,

knowingly occupies or uses the property in violation of this section is guilty of a class A misdemeanor. In this subsection, "knowingly" has the meaning given in AS 11.81.900(a).

(d) It is an affirmative defense to a prosecution under (c) of this section for allowing another to use or occupy the property that the defendant or an agent of the defendant, within four days after receiving a notice under AS 46.03.500, filed an appropriate civil action to remove the user or occupier from the property for which the notice was received.

- ALASKA STAT. §46.03.560 (2008): The owner of property for which a notice was received under AS 46.03.500(b) shall ensure that the property is vacated and secured against use

  (1) within four days after receiving the notice if the owner does not test the property within four days after receiving the notice; or

  (2) within four days after receiving the test results if the owner tests the property within four days after receiving the notice, the test shows the presence of a substance that exceeds the limits set in regulations adopted under AS 46.03.530, and the owner does not begin decontamination procedures under AS 46.03.540 within four days after receiving the test results.

Exceptions to Property Use Restrictions

- ALASKA STAT. § 46.03.510(a)-(b) (2008): Until determined to be fit for use under AS 46.03.550, the property for which a notice has been issued under AS 46.03.500(a) may not be transferred, sold, leased, or rented to another person except as provided in (b) of this section, and a person may not use or occupy the property at any time after the fourth day following the day on which the property was posted with the notice required under AS 46.03.500(d), except as necessary for sampling, testing, or decontamination under AS 46.03.520 and 46.03.540. An oral or written contract that would transfer, sell, lease, rent, or otherwise allow the use of the property in violation of this subsection is voidable between the parties at the option of the purchaser, transferee, user, lessee, or renter. However, this subsection (a) of § 46.03.510 does not:

  (1) make voidable a promissory note or other evidence of indebtedness or a mortgage, trust deed, or other security interest securing the promissory note or evidence of indebtedness, if the note or evidence of indebtedness, mortgage, trust deed, or other security interest was given to a person other than the person transferring, selling, using, leasing, or renting the property to induce the person to finance the transfer, sale, use, leasing, or rental of the property;

(2) make voidable a lease or rental agreement between the property owner and the person who caused the property to be contaminated and determined unfit for use; or

(3) impair obligations or duties required to be performed on termination of a contract, as required by the contract, such as payment of damages or return of refundable deposits.

(b) Notwithstanding (a) of this section, property covered by (a) of this section may be transferred or sold if full written disclosure is made to the prospective transferee or purchaser that the property has been determined to be an illegal drug manufacturing site and the property has not been determined to be fit for use. The disclosure shall be attached to the earnest money receipt, if any, and shall accompany the transfer or sale document. The disclosure is not considered to be part of the transfer or sale document, however, and may not be recorded. The property shall continue to be subject to the restrictions in (a) of this section after transfer or sale under this subsection.

ARIZONA

Property Use Restrictions

- ARIZ. REV. STAT. ANN. § 12-1000(A) (2008): A. If a peace officer discovers a clandestine drug laboratory or arrests a person for having on any real property chemicals or equipment used in manufacturing methamphetamine, ecstasy or LSD or a derivative of methamphetamine, ecstasy or LSD, the peace officer:

  1. At the time of the discovery or arrest, shall deliver a copy of the notice of removal pursuant to subsection B of this section to the owner of the real property if the owner is on the site at the time of delivery, the on-site manager if the manager is on the site at the time of delivery or the on-site drop box if available. In the case of a tenant-owned unit in a space rental mobile home or recreational vehicle park, the officer shall deliver a copy of the notice of removal to the occupant of the unit if the occupant is on site at the time of delivery and to the on-site park landlord if the park landlord is on site at the time of delivery.

  2. Within two business days after the discovery or arrest, shall send the notice of removal by certified mail to the owner of the real property and the owner's on-site manager or, in the case of a space rental mobile home or recreational vehicle park, to the owner of the mobile home or recreational vehicle, if applicable, and to the park landlord. These persons are deemed to receive the notice of removal five days after the notice is mailed. The notice shall be sent to the following:

  (a) The owner's address on file with the county assessor. The county shall waive any fee or charge for the owner's address information.

(b) The county health department.

(c) The appropriate local fire department.

(d) The state board of technical registration.

3. After a law enforcement or other agency removes the gross contamination on the real property, shall order the removal of all persons from the residually contaminated portion of the real property or dwelling unit, if applicable, or, in the case of a space rental mobile home or recreational vehicle park, from the unit located on the real property.

4. After the peace officer removes all persons pursuant to paragraph 3 of this subsection, shall affix the notice of removal in a conspicuous place on the real property or, in the case of a space rental mobile home or recreational vehicle park, on the unit located on the real property. The notice of removal shall state that it is unlawful for any person other than the owner, landlord or manager to enter the residually contaminated portion of the property until the owner remediates the residually contaminated portion of the property.

B. The notice of removal shall be in writing and shall contain all of the following:

1. The word "warning" in large bold type at the top and bottom of the notice,

2. A statement that a clandestine drug laboratory was seized or a person was arrested on the real property for having chemicals or equipment used in the manufacturing of methamphetamine, ecstasy or LSD on the real property.

3. The date of the seizure or arrest.

4. The address or location of the real property, including the identification of any dwelling unit, room number, apartment number or vehicle number.

5. The name of the law enforcement agency or other agency that seized the clandestine drug laboratory or made the arrest and the agency's contact telephone number.

6. A statement that hazardous substances, toxic chemicals or other waste products may still be present on the real property or, in the case of a space rental mobile home or recreational vehicle park, in the unit located on the real property.

7. A statement that it is unlawful for any unauthorized person to enter the residually contaminated portion of the real property, or in the case of a space rental mobile home or recreation vehicle park, the unit located on the real property, until the owner, landlord or

manager establishes that the portion of the real property noticed as residually contaminated has been remediated by a drug laboratory site remediation firm.

8. A statement that it is a class 6 felony to violate this section.

9. A statement that it is a class 2 misdemeanor to disturb the notice of removal posted on the real property.

10. A statement that the owner of the real property shall remediate the residually contaminated portion of the property in compliance with subsection C of this section.

11. A statement that if an owner fails to provide any notice required by this section, the owner is subject to a civil penalty and a buyer, tenant or customer may void a purchase contract, rental agreement or other agreement.

Exceptions to Property Use Restrictions

- ARIZ. REV. STAT. ANN. § 12-1000(A)(3)-(A)(4) (2008): A. If a peace officer discovers a clandestine drug laboratory or arrests a person for having on any real property chemicals or equipment used in manufacturing methamphetamine, ecstasy or LSD or a derivative of methamphetamine, ecstasy or LSD, the peace officer:

  3. After a law enforcement or other agency removes the gross contamination on the real property, shall order the removal of all persons from the residually contaminated portion of the real property or dwelling unit, if applicable, or, in the case of a space rental mobile home or recreational vehicle park, from the unit located on the real property.

  4. After the peace officer removes all persons pursuant to paragraph 3 of this subsection, shall affix the notice of removal in a conspicuous place on the real property or, in the case of a space rental mobile home or recreational vehicle park, on the unit located on the real property. The notice of removal shall state that it is unlawful for any person other than the owner, landlord or manager to enter the residually contaminated portion of the property until the owner remediates the residually contaminated portion of the property.

ARKANSAS

Property Use Restrictions

- ARK. CODE ANN. §8-7-1405 (c)(1) (West 2007): At the time a law enforcement officer removes the gross contamination from property used as a laboratory for the manufacture of controlled substances, the law enforcement officer shall order the removal of all persons from the residually contaminated portion of the property or dwelling unit or in the case of a space-rental mobile home or a recreational vehicle park from the unit located on the property.

PROPERTY USE RESTRICTIONS & EXCEPTIONS TO RESTRICTIONS

- ARK CODE ANN. §8-7-1405 (d)(7)(D) (West 2007): (d) The notice of removal under this section shall be in writing and shall contain all of the following:

  (7) A statement that:

  (D)(i) It is unlawful for any unauthorized person to enter a residually contaminated property or in the case of a space-rental mobile home or recreational vehicle park the unit located on the property until the Arkansas Department of Environmental Quality establishes that the portion of the property identified as residually contaminated has been properly remediated.

  (ii) As used in subdivision (d)(7)(D)(i) of this section, "authorized person" means:

  (a) An employee of the Arkansas Department of Environmental Quality;

  (b) A law enforcement officer;

  (c) The owner of a residually contaminated property; and

  (b) A representative of an owner of a residually contaminated property if the representative has signed a waiver of liability.

Exceptions to Property Use Restrictions

- ARK CODE ANN. §8-7-1405 (d)(7)(D) (West 2007): (d) The notice of removal under this section shall be in writing and shall contain all of the following:

  (7) A statement that:

  (D)(i) It is unlawful for any unauthorized person to enter a residually contaminated property or in the case of a space-rental mobile home or recreational vehicle park the unit located on the property until the Arkansas Department of Environmental Quality establishes that the portion of the property identified as residually contaminated has been properly remediated.

  (ii) As used in subdivision (d)(7)(D)(i) of this section, "authorized person" means:

  (a) An employee of the Arkansas Department of Environmental Quality;

  (b) A law enforcement officer;

(c) The owner of a residually contaminated property; and

(d) A representative of an owner of a residually contaminated property if the representative has signed a waiver of liability.

CALIFORNIA

Property Use Restrictions

- CAL. HEALTH & SAFETY CODE § 25400.18(g) (West 2008): Within 48 hours after receiving notification from a law enforcement agency of potential contamination of property by a methamphetamine laboratory activity, the local health officer shall post a written notice in a prominent location on the premises of the property. At a minimum, the notice shall include all of the following information:

  (g) A statement that it is unlawful for an unauthorized person to enter the contaminated portion of the property until advised that it is safe to do so by the local health officer or designated local agency.

- CAL. HEALTH & SAFETY CODE § 25400.22(a)(4) (West 2008): (a) No later than 10 working days after the date when a local health officer determines that property is contaminated pursuant to subdivision (b) of Section 25400.20, the local health officer shall do the following:…

  (4) Issue to persons specified in subdivisions (d), (e), and (f) an order prohibiting the use or occupancy of the contaminated portions of the property.

- CAL. HEALTH & SAFETY CODE § 25400.22(g)(6) (West 2008): (g)The order issued pursuant to this section shall include all of the following information:

  (6) A prohibition on the use of all or portions of the property that are contaminated.

- CAL. HEALTH & SAFETY CODE § 25400.25 (West 2008): (a) A property owner who receives an order issued pursuant to Section 25400.22 that property owned by that person is contaminated by a methamphetamine laboratory activity, a property owner who owns property that is the subject of an order posted pursuant to subdivision (i) of Section 25400.22, and a person occupying property that is the subject of the order, shall immediately vacate the affected unit, including the mobilehome, manufactured home, or recreational vehicle, as applicable, and any accessory building or structure related thereto, that is determined to be in a hazardous zone by the local health officer.

(b) In addition to authority granted by Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of the Civil Code) and the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of the Civil Code), the owner of a mobilehome park or special occupancy park in which a manufactured home, mobilehome, or recreational vehicle subject to the order is located may terminate tenancy in order to obtain possession of the space by service of a three-day notice to quit in accordance with paragraph (4) of Section 1161 of the Code of Civil Procedure.

(c) No later than 30 days after receipt of an order issued pursuant to Section 25400.22, the property owner shall demonstrate to the local health officer that the property owner has retained a methamphetamine laboratory site remediation firm that is an authorized contractor to remediate the contamination caused by the methamphetamine laboratory activity.

- CAL. HEALTH & SAFETY CODE § 25400.45(b) (West 2008): (b) A person who violates an order issued by a local health officer pursuant to this chapter prohibiting the use or occupancy of a property or a portion thereof contaminated by a methamphetamine laboratory activity is subject to a civil penalty in an amount of up to five thousand dollars ($5,000).

Exceptions to Property Use Restrictions

- NOT FOUND

COLORADO

Property Use Restrictions

- COLO. REV. STAT. ANN. § 25-18.5-103(1)(a) (West 2008): (1)(a) Upon notification from a peace officer that chemicals, equipment, or supplies indicative of an illegal drug laboratory are located on a property, or when an illegal drug laboratory used to manufacture methamphetamine is otherwise discovered and the property owner has received notice, the owner of any contaminated property shall meet the cleanup standards for property established by the board in section 25-18.5-102; except that a property owner may, at his or her option and subject to paragraph (b) of this subsection (1), elect instead to demolish the contaminated property. If the owner elects to demolish the contaminated property, the governing body or, if none has been designated, the health department, building department, or law enforcement agency with jurisdiction over the area where the property is located may require the owner to fence off the property or otherwise make it inaccessible to persons for occupancy or intrusion.

PROPERTY USE RESTRICTIONS & EXCEPTIONS TO RESTRICTIONS

- COLO. REV. STAT. ANN. § 25-18.5-104 (West 2008): If a structure or vehicle has been determined to be contaminated or if a governing body or law enforcement agency issues a notice of probable contamination, the owner of the structure or vehicle shall not permit any person to have access to the structure or vehicle unless the person is trained or certified to handle contaminated property pursuant to board rules or federal law.

- COLO. REV. STAT. ANN. § 25-18.5-105 (West 2008): (1) An illegal drug laboratory that has not met the cleanup standards set by the board in section 25-18.5-102 shall be deemed a public health nuisance.

  (2) Governing bodies may enact ordinances or resolutions to enforce this article, including, but not limited to, preventing unauthorized entry into contaminated property; requiring contaminated property to meet cleanup standards before it is occupied; notifying the public of contaminated property; coordinating services and sharing information between law enforcement, building, public health, and social services agencies and officials; and charging reasonable inspection and testing fees.

- COLO. REV. STAT. ANN. § 38-12-510 (West 2008) (as amended by 2008 H.B. 08-1356): It shall be unlawful for a landlord to remove or exclude a tenant from a dwelling unit without resorting to court process, unless the removal or exclusion is consistent with the provisions of Article 18.5 of Title 25 C.R.S., and the rules promulgated by the state board of health for the cleanup of an illegal drug laboratory or is with the mutual consent of the landlord and tenant or unless the dwelling unit has been abandoned by the tenant as evidenced by the return of keys, the substantial removal of the tenant's personal property, notice by the tenant, or the extended absence of the tenant while rent remains unpaid, any of which would cause a reasonable person to believe the tenant had permanently surrendered possession of the dwelling unit. Such unlawful removal or exclusion includes the willful termination of utilities or the willful removal of doors, windows, or locks to the premises other than as required for repair or maintenance. If the landlord willfully and unlawfully removes the tenant from the premises or willfully and unlawfully causes the termination of heat, running water, hot water, electric, gas, or other essential services, the tenant may seek any remedy available under the law, including this part 5.

- 6 COLO. CODE REGS. § 1014-3-4.0 (2008): 4.0 Preliminary Assessment. A preliminary assessment shall be conducted by the consultant, in accordance with section 6.7 of this regulation, prior to the commencement of property decontamination. Information gained during the preliminary assessment shall be the basis for property decontamination and clearance sampling. Contractors and consultants shall use appropriate personal protective

equipment during the preliminary assessment. Access to the property shall be limited to those with appropriate training and personal protective equipment…

Exceptions to Property Use Restrictions

- COLO. REV. STAT. ANN. § 25-18.5-104 (West 2008): If a structure or vehicle has been determined to be contaminated or if a governing body or law enforcement agency issues a notice of probable contamination, the owner of the structure or vehicle shall not permit any person to have access to the structure or vehicle unless the person is trained or certified to handle contaminated property pursuant to board rules or federal law.

- 6 COLO. CODE REGS. § 1014-3-4.0 (2008): 4.0 Preliminary Assessment. A preliminary assessment shall be conducted by the consultant, in accordance with section 6.7 of this regulation, prior to the commencement of property decontamination. Information gained during the preliminary assessment shall be the basis for property decontamination and clearance sampling. Contractors and consultants shall use appropriate personal protective equipment during the preliminary assessment. Access to the property shall be limited to those with appropriate training and personal protective equipment…

CONNECTICUT

- NOT FOUND

DELAWARE

- NOT FOUND

FLORIDA

- NOT FOUND

GEORGIA

- NOT FOUND

HAWAII

Property Use Restrictions

- "Requirements for Decontamination and Cleanup of Methamphetamine Manufacturing Sites" page 6-1: The HEER Office will declare the CDL a public health concern, approve the property owner's private contractor(s) and their respective WF/FSP/HARP/QAPP, prohibit re-occupancy of meth lab properties, and provide oversight of the entire project until remediation and confirmatory sampling are complete.

Exceptions to Property Use Restrictions

- NOT FOUND

PROPERTY USE RESTRICTIONS & EXCEPTIONS TO RESTRICTIONS

IDAHO

Property Use Restrictions

- IDAHO CODE ANN. § 6-2606 (2008): (1) Except as otherwise provided in subsection (2) of this section, and pursuant to rules adopted as provided in this chapter, upon notification to a residential property owner by a law enforcement agency that chemicals, equipment, supplies or immediate precursors indicative of a clandestine drug laboratory have been located on the owner's residential property, the residential property owner shall meet the cleanup standards established by the department. The residential property shall remain vacant from the time the residential property owner is notified, in accordance with rules adopted as provided in this chapter, of the clandestine drug laboratory until such time as the residential property owner has received a certificate issued by the department evidencing that the cleanup standards have been met.

  (2) A residential property owner may, at his or her option, elect to demolish the residential property instead of meeting the cleanup standards established by the department.

- IDAHO ADMIN. CODE r. § 16.02.24.200.01 (2008): The owner of a listed property must:

  01. Ensure the Vacancy of the Listed Property. Ensure the property remains vacant until the property is delisted in accordance with Section 120 of these rules.

Exceptions to Property Use Restrictions

- NOT FOUND

ILLINOIS

- NOT FOUND

INDIANA

Property Use Restrictions

- 318 IND. ADMIN. CODE 1-3-2(a) (2007): (a) The owner of the contaminated property shall clean up the contaminated property as required by this article before:

  (1) continuing to occupy or use the property;

  (2) reoccupying or reusing the property;

  (3) allowing the property to be reoccupied or reused; or

(4) transferring any interest in the property to another person.

- 318 IND. ADMIN. CODE 1-3-4 (2008): (a) A county may take possession of a contaminated property in accordance with IC 6-1.1-25-4.1 without complying with this rule, unless that property is, or will be, occupied while in the possession of the county.

  (b) A county may transfer a contaminated property in accordance with IC 6-1.1-25-4.1 without complying with this rule if the county notifies the person who receives the tax deed to the property that the property is a contaminated property. The person who receives the tax deed to a contaminated property under IC 6-1.1-25-4.1 must comply with this rule.

Exceptions to Property Use Restrictions

- 318 IND. ADMIN. CODE 1-3-4 (2008): (a) A county may take possession of a contaminated property in accordance with IC 6-1.1-25-4.1 without complying with this rule, unless that property is, or will be, occupied while in the possession of the county.

  (b) A county may transfer a contaminated property in accordance with IC 6-1.1-25-4.1 without complying with this rule if the county notifies the person who receives the tax deed to the property that the property is a contaminated property. The person who receives the tax deed to a contaminated property under IC 6-1.1-25-4.1 must comply with this rule.

IOWA

- NOT FOUND

KANSAS

- NOT FOUND

KENTUCKY

- NOT FOUND

LOUISIANA

- NOT FOUND

MAINE

- NOT FOUND

MARYLAND

- NOT FOUND

MASSACHUSETTS

- NOT FOUND

MICHIGAN

Property Use Restrictions

- MICH. COMP. LAWS ANN. § 333.12103(3) (West 2008): (3) Within 48 hours of discovering an illegal drug manufacturing site, a state or local law enforcement agency shall notify the local health department and the department of community health regarding the potential contamination of any property or dwelling that is or has been the site of illegal drug manufacturing. The state or local law enforcement agency shall post a written warning on the premises stating that potential contamination exists and may constitute a hazard to the health or safety of those who may occupy the premises. Within 14 days after receipt of the notification under this subsection or as soon thereafter as practically possible, the department of community health, in cooperation with the local health department, shall review the information received from the state or local law enforcement agency, emergency first responders, or hazardous materials team that was called to the site and make a determination regarding whether the premises are likely to be contaminated and whether that contamination may constitute a hazard to the health or safety of those who may occupy the premises. The fact that the property or a dwelling has been used as a site for illegal drug manufacturing shall be treated by the department of community health as prima facie evidence of likely contamination that may constitute a hazard to the health or safety of those who may occupy those premises. If the property or dwelling, or both, is determined likely to be contaminated under this subsection, the local health department or the department of community health shall issue an order requiring the property or dwelling to be vacated until the property owner establishes that the property is decontaminated or the risk of likely contamination ceases to exist. The property owner may establish that the property is decontaminated by submitting a written assessment of the property before decontamination and a written assessment of the property after decontamination, enumerating the steps taken to render the property decontaminated, and a certification that the property has been decontaminated and that the risk of likely contamination no longer exists to the enforcing agency. The property or dwelling shall remain vacated until the enforcing agency has reviewed and concurred in the certification.

- MICH. COMP. LAWS ANN. § 125.485a (3) (West 2008): (3) If the property or dwelling, or both, is determined likely to be contaminated under subsection (2), the enforcing agency shall issue an order requiring the property or dwelling to be vacated until the property owner establishes that the property is decontaminated or the risk of likely contamination ceases to exist. The property owner may establish that the property is decontaminated by

submitting a written assessment of the property before decontamination and a written assessment of the property after decontamination, enumerating the steps taken to render the property decontaminated, and a certification that the property has been decontaminated and that the risk of likely contamination no longer exists to the enforcing agency. The property or dwelling shall remain vacated until the enforcing agency has reviewed and concurred in the certification.

Exceptions to Property Use Restrictions

- NOT FOUND

MINNESOTA

Property Use Restrictions

- MINN. STAT. ANN. § 152.0275, Subd. 2(c) (West 2008): A county or local health department or sheriff shall order that any property or portion of a property that has been found to be a clandestine lab site and contaminated by substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine be prohibited from being occupied or used until it has been assessed and remediated as provided in the department of health's clandestine drug labs general cleanup guidelines. The remediation shall be accomplished by a contractor who will make the verification required under paragraph (e).

Exceptions to Property Use Restrictions

- NOT FOUND

MISSISSIPPI

- NOT FOUND

MISSOURI

- NOT FOUND

MONTANA

- NOT FOUND

NEBRASKA

Property Use Restrictions

- NEB REV. STAT. § 71-2434(3) (2007): (3) The owner or owners of contaminated property shall not permit the human habitation or use of such property until the rehabilitation of such property has been completed and the property has been released for such habitation or use under this section. An owner who knowingly violates this subsection may be

subject to a civil penalty not to exceed one thousand dollars. The department shall enforce this subsection.

Exceptions to Property Use Restrictions

- NOT FOUND

NEVADA

- NOT FOUND

NEW HAMPSHIRE

- NOT FOUND

NEW JERSEY

- NOT FOUND

NEW MEXICO

Property Use Restrictions

- N.M. CODE R. § 20.4.5.11(G), (J) (Weil 2008): The notice of contamination required by 20.4.5.10 NMAC shall contain the following in both English and Spanish or other appropriate tribal language.

  G. A statement that a person other than the owner or the owner's agent may not enter, occupy, or use the clandestine drug laboratory property or otherwise knowingly and intentionally violate the provisions of the notice of contamination until remediation of the residually contaminated portion of the property has taken place in accordance with 20.4.5.16 NMAC and such remediation has been approved by the department.

  J. A statement that until remediation is complete, the owner or the owner's agent shall not sell, lease, rent, loan, assign, exchange, or otherwise transfer the residually contaminated portion of the property without providing notice of its existence as required by 20.4.5.13 NMAC.

- N.M. CODE R. § 20.4.5.13 (Weil 2008): A. An owner shall not sell, lease, rent, loan, assign, exchange or otherwise transfer the clandestine drug laboratory property unless the owner does the following:

  (1) provides written notice to the purchaser, lessee, renter, borrower, assignee, exchange partner or other transferee, with a copy to the department's hazardous waste bureau, of the existence of the clandestine drug laboratory; and

(2) receives a written acknowledgment, and provides a copy to the department's hazardous waste bureau, that the notice was received by the purchaser, lessee, renter, borrower, assignee, exchange partner or other transferee.

B. A person other than the owner or the owner's agent may not enter, occupy, or use the clandestine drug laboratory or otherwise knowingly and intentionally violate the provisions of the notice of contamination until remediation of the residually contaminated portion of the property has taken place in accordance with 20.4.5.16 NMAC. Persons performing work for a law enforcement agency, the department, or a remediation firm are excepted from this prohibition.

Exceptions to Property Use Restrictions

- N.M. CODE R. § 20.4.5.13 (Weil 2008): A. An owner shall not sell, lease, rent, loan, assign, exchange or otherwise transfer the clandestine drug laboratory property unless the owner does the following:

  (1) provides written notice to the purchaser, lessee, renter, borrower, assignee, exchange partner or other transferee, with a copy to the department's hazardous waste bureau, of the existence of the clandestine drug laboratory; and

  (2) receives a written acknowledgment, and provides a copy to the department's hazardous waste bureau, that the notice was received by the purchaser, lessee, renter, borrower, assignee, exchange partner or other transferee.

  B. A person other than the owner or the owner's agent may not enter, occupy, or use the clandestine drug laboratory or otherwise knowingly and intentionally violate the provisions of the notice of contamination until remediation of the residually contaminated portion of the property has taken place in accordance with 20.4.5.16 NMAC. Persons performing work for a law enforcement agency, the department, or a remediation firm are excepted from this prohibition.

NEW YORK

- NOT FOUND

NORTH CAROLINA

Property Use Restrictions

- 10A N.C. ADMIN. CODE 41D.0101 (West 2008): The rules of this Subchapter implement the provisions of G.S.130A-284 by establishing decontamination standards for property that has been used for the manufacture of methamphetamine. The contaminated property

shall not be occupied prior to decontamination of the property in accordance with these Rules.

(b) A responsible party shall, prior to habitation of the property:

(1) perform a pre-decontamination assessment to determine the level of contamination and scope of remediation;

(2) decontaminate the property; and

(3) document the activities of this Paragraph. The Division shall develop a template that can be used for this purpose.

(c) As used in this Subchapter the term "responsible party" means an owner, lessee, operator, or other person in control of a residence or place of business or any structure appurtenant to a residence or place of business who has knowledge that the property has been used for the manufacture of methamphetamine.

(d) When law enforcement officials have posted a notice on property signifying that the property had been used as a clandestine methamphetamine laboratory, the law enforcement officials shall immediately notify the local health department of the presence of the laboratory. The local health department shall immediately inform the property owner of record or his agent that the property has been used as a methamphetamine laboratory, inform him that the property must be vacated, and inform him of the requirement placed upon a responsible party to remediate the property in accordance with these rules prior to the property being reoccupied.

Exceptions to Property Use Restrictions

- NOT FOUND

NORTH DAKOTA

- NOT FOUND

OHIO

- NOT FOUND

OKLAHOMA

- NOT FOUND

OREGON

PROPERTY USE RESTRICTIONS & EXCEPTIONS TO RESTRICTIONS

Property Use Restrictions

- OR. REV. STAT. ANN. § 453.867 (2007): (1) Unless determined fit for use, pursuant to ORS 105.555, 431.175 and 453.855 to 453.912 and rules of the Department of Human Services, or as authorized by ORS 453.870, no person shall transfer, sell, use or rent any property knowing or having reasonable grounds to believe it was used as an illegal drug manufacturing site.

  (2) All contracts, oral or written, for the transfer, sale, use or rent of property in violation of subsection (1) of this section are voidable between the parties, at the instance of the purchaser, transferee, user or renter. This subsection shall not make voidable any promissory note or other evidence of indebtedness or any mortgage, trust deed or other security interest securing such a promissory note or evidence of indebtedness, where such note or evidence and any such mortgage, trust deed or other security interest were given to a person other than the person transferring, selling, using or renting the property to induce such person to finance the transfer, sale, use or rental of the property. This section shall not impair obligations or duties required to be performed upon termination of a contract, as required by the provisions of the contract, including but not limited to payment of damages or return of refundable deposits.

- OR. REV. STAT. ANN. § 453.876 (2007): (1) The Director of Human Services or a designee thereof, the State Fire Marshal or a designee thereof or any law enforcement agency may determine that property is not fit for use pursuant to ORS 105.555, 431.175 and 453.855 to 453.912 and applicable rules adopted by the Department of Human Services and may make that determination on site. The determination is effective immediately and renders the property not fit for use.

- OR. REV. STAT. ANN. § 453.882 (2007): The owner of property shall be considered to be maintaining a public nuisance subject to being enjoined or abated under ORS 105.550 to 105.600 if the property has been determined to be not fit for use under ORS 453.876 and the owner:

  (1) Allows the property to be used as if it were fit for use; or

  (2) Fails to have the property decontaminated and certified as fit for use under ORS 453.885 within 180 days after the determination under ORS 453.876.

- OR. ADMIN. R. § 333-040-0065(1)(a) & (5) (2008): (1) The owner of property determined to be unfit for use shall:

(a) Prevent by reasonable means the entry, occupancy or any use whatsoever by anyone of the property in question until the property has been issued a Certificate of Fitness or until the determination that the property is unfit for use has been reversed in writing by the determining agency or by a court of law; except that qualified contractors and regulatory agencies and their authorized agents may enter such properties for purposes of evaluation, sampling, and/or decontamination; and owners or agents of the owner may enter such properties for the purposes of decontamination when approved by the Division as set forth in section (2) of this rule.

(5) An owner must do one of the following before unfit for use property can be used: provide evidence that the unfit for use property designation has been reversed on appeal; provide evidence that the property has been assessed as set forth in OAR 333-040-0070(1)(a), found not to be contaminated, and a Certificate of Fitness issued; or provide evidence that the property has been decontaminated and a Certificate of Fitness issued.

Exceptions to Property Use Restrictions

- OR. REV. STAT. ANN. § 453.870 (2007): (1) Any property that is not fit for use as determined under ORS 453.876 may be transferred or sold if full, written disclosure, as required by rules of the Department of Human Services, is made to the prospective purchaser, attached to the earnest money receipt, if any, and shall accompany but not be a part of the sale document nor be recorded. However, such property shall continue to be subject to the provisions of ORS 453.876, regardless of transfer or sale under this section.

  (2) Any transferee or purchaser who does not receive the notice described in subsection (1) of this section may set aside the transfer or sale as voidable and bring suit to recover damages for any losses incurred because of the failure to give such notice.

  (3) The transferor or seller of any property described in subsection (1) of this section shall notify the department of the transfer or sale as required by rule of the department.

- OR. REV. STAT. ANN. § 453.873 (2007): For the purposes of enforcement of ORS 105.555, 431.175 and 453.855 to 453.912, the Director of Human Services or a designee thereof or the State Fire Marshal or a designee thereof, upon presenting appropriate credentials and a warrant, if necessary, issued under ORS 431.175 to the owner or agent of the owner, may:

  (1) Enter, at reasonable times, any property that is known to have been used as an illegal drug manufacturing site or for which there are reasonable grounds to believe that the property has been used as an illegal drug manufacturing site.

(2) Inspect, at reasonable times, within reasonable limits and in a reasonable manner, property known to have been used as an illegal drug manufacturing site or for which there are reasonable grounds to believe the property has been used as an illegal drug manufacturing site.

- OR. REV. STAT. ANN. § 475.455 (2007): (1) Upon request of a law enforcement agency under ORS 475.415, the Department of Environmental Quality or its authorized representative may enter any alleged illegal drug manufacturing site at any reasonable time to:

  (a) Sample, inspect, examine and investigate;

  (b) Examine and copy records and other information; or

  (c) Carry out cleanup action authorized by ORS 475.415 to 475.455, 475.475 and 475.485.

  (2) If any person refuses to provide information, documents, records or to allow entry under subsection (1) of this section, the department may request the Attorney General to seek from a court of competent jurisdiction an order requiring the person to provide such information, documents, records or to allow entry.

- OR. ADMIN. R. § 333-040-0065(1)(a) (2008): (1) The owner of property determined to be unfit for use shall:

  (a) Prevent by reasonable means the entry, occupancy or any use whatsoever by anyone of the property in question until the property has been issued a Certificate of Fitness or until the determination that the property is unfit for use has been reversed in writing by the determining agency or by a court of law; except that qualified contractors and regulatory agencies and their authorized agents may enter such properties for purposes of evaluation, sampling, and/or decontamination; and owners or agents of the owner may enter such properties for the purposes of decontamination when approved by the Division as set forth in section (2) of this rule.

- OR. ADMIN. R. § 333-040-0140 (2008): Properties determined to be unfit for use may be entered and inspected as set forth in ORS 453.873 and Oregon Laws 1999, chapter 861. Law enforcement officials may accompany such entries for safety or security purposes. The owner, manager, tenant, or occupant of such property shall allow access to all parts of such property for these purposes and for quality control evaluations pursuant to OAR 333-040-0150 from the date of the finding that the property is unfit for use and up to six months after a Certificate of Fitness has been issued.

- OR. ADMIN. R. § 918-010-0025-11 (2008): (1) Once property is designated as "unfit for use," procedures for requiring removal of contents or vacation of the premises may be started.

  (2) The standards in the 1988 Edition of The Uniform Code for the Abatement of Dangerous Buildings published by the International Conference of Building Officials are adopted under ORS 453.906 as the uniform standards whereby local building code enforcement agencies may act to condemn, demolish, and require the vacation of the property or removal of contents. The "Dangerous Building Section," Section 302 of the Uniform Code, may only be used when the conditions or defect results from, or is made more dangerous to, the life, health, property or safety of the public or its occupants because of the use of the property or its status as an illegal drug manufacturing site.

  (3) Nothing in this rule prohibits any local jurisdiction from adopting the procedures provided in The Uniform Code for the Abatement of Dangerous Buildings.

PENNSYLVANIA
- NOT FOUND

RHODE ISLAND
- NOT FOUND

SOUTH CAROLINA
- NOT FOUND

SOUTH DAKOTA
- NOT FOUND

TENNESSEE

Property Use Restrictions

- TENN. CODE ANN. § 68-212-503 (West 2008): (a) The purpose of the quarantine provided for in this section is to prevent exposure of any person to the hazards associated with methamphetamine and the chemicals associated with the manufacture of methamphetamine.

  (b) Any property, or any structure or room in any structure on any property wherein the manufacture of a controlled substance listed in § 39-17-408(d)(2) is occurring or has occurred, may be quarantined by the local law enforcement agency where such property is located. The law enforcement agency which quarantines the property shall be

responsible for posting signs indicating that the property has been quarantined and, to the extent they can be reasonably identified, for notifying all parties having any right, title or interest in the quarantined property, including any lienholders.

(c)(1) Any person who has an interest in property quarantined pursuant to this section may file a petition in the general sessions, criminal, circuit or chancery court of the county in which the property is located. Such a petition shall be for the purpose of requesting that the court order the quarantine of such property be lifted for one (1) of the following reasons:

(A) That the property was wrongfully quarantined; or

(B) That the property has been properly cleaned, all hazardous materials removed and that it is now safe for human use but the law enforcement agency who imposed the quarantine refuses to lift it.

(2) The court shall take such proof as it deems necessary to rule upon a petition filed pursuant to this section and, after hearing such proof, may grant the petition and lift the quarantine or deny the petition and keep the quarantine in place.

(d) It is prohibited for any person to inhabit quarantined property, to offer such property to the public for temporary or indefinite habitation, or to remove any signs or notices of the quarantine. Any person who willfully violates this subsection (d) commits a Class B misdemeanor.

- TENN. CODE ANN. § 68-212-505 (West 2008): Once the property has been quarantined, any party having a right, title or interest in the quarantined property, including any lienholders, may contact either a certified industrial hygienist or other person or entity certified as qualified from the list maintained by the commissioner to perform appropriate testing on the property to determine whether hazardous waste is present on the property, or a contractor from the list maintained by the commissioner for clean-up and removal of all hazardous waste from the property. The property must remain quarantined until a certified industrial hygienist or other person or entity named on the commissioner's list compiled pursuant to § 68-212-502 certifies to the quarantining agency that the property is safe for human use.

Exceptions to Property Use Restrictions

- NOT FOUND

TEXAS

PROPERTY USE RESTRICTIONS & EXCEPTIONS TO RESTRICTIONS

- NOT FOUND

UTAH

Property Use Restrictions

- UTAH ADMIN. CODE r. R392-600-3(4) (2008): If the preliminary assessment reveals the presence of contamination, the decontamination specialist or owner of record shall proceed according to R392- 600-4 through R392-600-7. The contaminated portions of the property shall be kept secure against un-authorized access until the work plan has been submitted, any required permit is issued, and the property has been decontaminated to the standards established in this rule.

Exceptions to Property Use Restrictions

- NOT FOUND

VERMONT

- NOT FOUND

VIRGINIA

- NOT FOUND

WASHINGTON

Property Use Restrictions

- WASH. REV. CODE ANN. § 64.44.030 (West 2008): (1) If after the inspection of the property, the local health officer finds that it is contaminated, then the local health officer shall issue an order declaring the property unfit and prohibiting its use. The local health officer shall cause the order to be served either personally or by certified mail, with return receipt requested, upon all occupants and persons having any interest therein as shown upon the records of the auditor's office of the county in which such property is located. The local health officer shall also cause the order to be posted in a conspicuous place on the property. If the whereabouts of such persons is unknown and the same cannot be ascertained by the local health officer in the exercise of reasonable diligence, and the health officer makes an affidavit to that effect, then the serving of the order upon such persons may be made either by personal service or by mailing a copy of the order by certified mail, postage prepaid, return receipt requested, to each person at the address appearing on the last equalized tax assessment roll of the county where the property is located or at the address known to the county assessor, and the order shall be posted conspicuously at the residence. A copy of the order shall also be mailed, addressed to each person or party having a recorded right, title, estate, lien, or interest in the property. The order shall contain a notice that a hearing before the local health board or officer shall be held upon the request of a person required to be notified of the order under this

section. The request for a hearing must be made within ten days of serving the order. The hearing shall then be held within not less than twenty days nor more than thirty days after the serving of the order. The officer shall prohibit use as long as the property is found to be contaminated. A copy of the order shall also be filed with the auditor of the county in which the property is located, where the order pertains to real property, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. In any hearing concerning whether property is fit for use, the property owner has the burden of showing that the property is decontaminated or fit for use. The owner or any person having an interest in the property may file an appeal on any order issued by the local health board or officer within thirty days from the date of service of the order with the appeals commission established pursuant to RCW 35.80.030. All proceedings before the appeals commission, including any subsequent appeals to superior court, shall be governed by the procedures established in chapter 35.80 RCW.

(2) If the local health officer determines immediate action is necessary to protect public health, safety, or the environment, the officer may issue or cause to be issued an emergency order, and any person to whom such an order is directed shall comply immediately. Emergency orders issued pursuant to this section shall expire no later than seventy-two hours after issuance and shall not impair the health officer from seeking an order under subsection (1) of this section.

- WASH. REV. CODE ANN. § 64.44.040 (West 2008): (1) Upon issuance of an order declaring property unfit and prohibiting its use, the city or county in which the contaminated property is located may take action to prohibit use, occupancy, or removal of such property; condemn, decontaminate, or demolish the property; or require that the property be vacated or the contents removed from the property. The city or county may use an authorized contractor if property is demolished, decontaminated, or removed under this section. The city, county, or contractor shall comply with all orders of the health officer during these processes. No city or county may condemn, decontaminate, or demolish property pursuant to this section until all procedures granting the right of notice and the opportunity to appeal in RCW 64.44.030 have been exhausted, but may prohibit use, occupancy, or removal of contaminated property pending appeal of the order.

  (2)(a) It is unlawful for any person to enter upon any property, or to remove any property, that has been found unfit for use by a local health officer pursuant to RCW 64.44.030.

  (b) This subsection does not apply to: (i) Health officials, law enforcement officials, or other government agents performing their official duties; (ii) authorized contractors or owners performing decontamination pursuant to authorization by the local health officer; and (iii) any person acting with permission of a local health officer, or of a superior court or hearing examiner following an appeal of a decision of the local health officer.

(c) Any person who violates this subsection is guilty of a misdemeanor.

(3) No provision of this section may be construed to limit the ability of the local health officer to permit occupants or owners of the property at issue to remove uncontaminated personal property from the premises.

- WASH. ADMIN. CODE § 246-205-520(3)-(4) (2008): (3) If the property is contaminated, the local health officer shall post a written notice on the premises declaring that the officer intends to issue an order prohibiting use of the property as long as the property is contaminated.

  (4) Within ten working days of determining the property is contaminated, the local health officer shall cause to be served an order prohibiting use as required under WAC 246-205-560.

- WASH. ADMIN. CODE § 246-205-540(1)-(2) (West 2008): (1) The local health officer shall make a determination of contamination when the inspection reveals the property is contaminated.

  (2) If designated contaminated, the local health officer shall post and cause to be served an order prohibiting use of all or portions of the property as required under WAC 246-205-520 and 246-205-560.

- WASH. ADMIN. CODE § 246-205-560 (2008): (1) Within ten working days after the local health officer's determination that a property is contaminated, the local health officer shall cause to be served, either personally or by certified mail, return receipt requested, an order prohibiting use to all known:

  (a) Occupants; and

  (b) Persons having an interest in the property as shown upon the records of the auditor's office of the county in which the property is located.

  (2) If the whereabouts of persons described under subsection (1) of this section is unknown and the same cannot be ascertained by the local health officer in the exercise of reasonable diligence, and the health officer makes an affidavit to that effect, then the serving of the order upon such persons may be made by:

  (a) Personal service; or

(b) Mailing a copy of the order by certified mail, postage prepaid, return receipt requested:

(i) To each person at the address appearing on the last equalized tax assessment roll of the county where the property is located; or

(ii) At the address known to the county assessor.

(3) The local health officer shall also mail a copy of the order addressed to each person or party having a recorded right, title, estate, lien, or interest in the property.

(4) The local health officer's order shall:

(a) Describe the local health officer's intended course of action;

(b) Describe the penalties for noncompliance with the order;

(c) Prohibit use of all or portions of the property as long as the property is contaminated;

(d) Describe what measures a property owner must take to have the property decontaminated; and

(e) Indicate the potential health risks involved.

(5) The local health officer shall:

(a) File a copy of the order prohibiting use of the property with the county auditor;

(b) Provide a copy of the order to the local building or code enforcement department; and

(c) Post the order in a conspicuous place on the property within one working day of issuance of the order.

(6) The local health officer's order shall advise that:

(a) A hearing before the local health officer or local health board shall be held upon the request of a person required to be notified of the order;

(b) The person's request for a hearing shall be made within ten days of the local health officer's serving of the order;

(c) The hearing shall be held not less than twenty days nor more than thirty days after the serving of the order; and

(d) In any hearing concerning whether property is contaminated, the property owner has the burden of showing that the property is decontaminated and meets the decontamination standards of WAC 246-205-541.

Exceptions to Property Use Restrictions

- WASH. REV. CODE ANN. § 64.44.040(2)(b) & (3) (West 2008): (2)(b)This subsection does not apply to: (i) Health officials, law enforcement officials, or other government agents performing their official duties; (ii) authorized contractors or owners performing decontamination pursuant to authorization by the local health officer; and (iii) any person acting with permission of a local health officer, or of a superior court or hearing examiner following an appeal of a decision of the local health officer.

  (3) No provision of this section may be construed to limit the ability of the local health officer to permit occupants or owners of the property at issue to remove uncontaminated personal property from the premises.

WEST VIRGINIA

Property Use Restrictions

- W. VA. CODE ANN. 60A-11-5 (West 2008): (a) Upon notification to the residential property owner by a law-enforcement agency that chemicals, equipment, supplies or precursors indicative of a clandestine drug laboratory have been located on the residential property owner's property, the residential property owner shall be responsible for actions necessary to meet the remediation standards established by the legislative rule authorized by this article. The residential property owner is responsible for actions to ensure the residential property shall remain unoccupied from the time the residential property owner is notified of the clandestine drug laboratory until such time as the department certifies that the completed remediation meets the numeric decontamination levels set forth in the legislative rule authorized in this article. The department shall have forty-five days from receipt of all necessary paperwork and documentation to complete remediation certification: *Provided,* That a residential property owner may demolish the residential property as an alternative to meeting the remediation standards established by the department.

  (b) Once the remediation has been certified complete by the department, the residential property owner and any representative or agent of a residential property owner who neither knew or should have known of the property's illegal use shall be immune from civil liability for action brought for injuries or loss based upon the prior use of the

residential property as a clandestine drug laboratory by future owners, renters, lessees or any other person who occupies the residential property.

(c) Any residential property owner who neither knew or should have known of the property's illegal use who chooses to voluntarily and successfully complete the remediation prior to notification by a law-enforcement agency shall have the same immunity from liability as set forth in subsection (b) of this section if the remediation meets the certification standards set forth in legislative rules authorized by this article.

- W. VA. CODE R. § 64-92-6 (2008): 6.1. A residential property owner who has been notified by a law enforcement agency of a clandestine drug laboratory on his or her property shall:

  6.1.a. Ensure the residential property remains unoccupied and secured until a certificate of remediation completion is issued for the property by the department or until the property is properly demolished and/or disposed; and

  6.1.b. Remediate the residential property in accordance with the provisions of this rule or demolish and/or dispose the residential property within thirty days of notification by a law enforcement agency.

  6.2. A residential property owner may delegate, in writing, the responsibilities for compliance with this section to a person who is responsible for the operation of the residential property or to the person who contracts for the remediation or demolition and/or disposal of the property.

  6.3. A residential property owner, seller or landlord shall disclose the certificate of remediation completion, issued by the department and acquired in accordance with subsection 9.2 of this rule, to any potential occupant of the residential property.

Exceptions to Property Use Restrictions

- W. VA. CODE R. § 64-92-11 (2008): The Commissioner has the right to enter any clandestine drug laboratory remediation project and to conduct inspections to determine compliance with this rule.

WISCONSIN

- NOT FOUND

WYOMING

Property Use Restrictions

PROPERTY USE RESTRICTIONS & EXCEPTIONS TO RESTRICTIONS

- WYO. STAT. ANN. § 35-9-153(h) (2008): (h) The commission shall, by rule and regulation, establish standards for protection of the safety of responding personnel during clandestine laboratory incident responses, standards for determining a site uninhabitable under W.S. 35-9-156(d), standards for determining the extent of contamination and standards for remediation required to render former clandestine laboratory operation sites safe for re-entry, habitation or use with respect to the following:

  (i) Decontamination and sampling standards and best management practices for the inspection and decontamination of property and the disposal of contaminated debris;

  (ii) Appropriate methods for the testing of buildings and interior surfaces, furnishings, soil and septic tanks for contamination;

  (iii) When testing for contamination may be required; and

  (iv) When a site may be declared remediated.

- WYO. STAT. ANN. § 35-9-156(d) – (h) (2008): (d) The incident commander shall declare an incident ended when he has determined the threat to public health and safety has ended. Until the incident commander has declared the threat to public safety has ended the incident commander shall have the authority to issue an order on behalf of the political subdivision that any portion of the building, structure or land is uninhabitable, secure the portion of the building, structure or land that is uninhabitable and take appropriate steps to minimize exposure to identified or suspected contamination at the site or premise. If the subject of the site or premise is commercial real estate, the incident commander shall limit the declaration of uninhabitable to the areas affected by the clandestine laboratory operation and shall not declare the entire commercial real estate uninhabitable unless the entire commercial property has been documented and determined uninhabitable using the standards promulgated by the state emergency response commission under W.S. 35-9-153(h). The incident commander shall provide written notice to the commercial real estate owner, describing with specificity the extent of the commercial property deemed uninhabitable. Any property that is ordered uninhabitable under this subsection shall only be transferred or sold prior to remediation if full, written disclosure is made to the prospective purchaser, attached to the earnest money receipt if any, and shall accompany the sale documents but not be a part of the deed nor shall it be recorded. The transferor or seller shall notify the incident commander of the transfer or sale within ten (10) days of the transfer or sale.

  (e) The order issued under subsection (d) of this section shall be in writing, shall state the grounds for the order and shall be filed in the office of the clerk of the district court of the county in which the building or structure is situated. A copy of the order shall be served

in accordance with the Wyoming Rules of Civil Procedure upon the owner and any occupants of the building or structure with a written notice that the order has been filed and shall remain in force, unless the owner or occupant files his objections or answer with the clerk of the district court within the time specified in subsection (f) of this section. A copy of the order shall be posted in a conspicuous place upon the building or structure.

(f) Within twenty (20) days of service of an order issued under subsection (d) of this section, the owner or occupant may file with the clerk of the district court and serve upon the political subdivision issuing the order, an answer denying the existence of any of the allegations in the order. If no answer is filed and served, the court shall affirm the order declaring the site uninhabitable and fix a time when the order shall be enforced. If an answer is filed and served, the court shall hear and determine the issues raised as set forth in subsection (g) of this section.

(g) The court shall hold a hearing within eleven (11) days from the date of the filing of the answer. If the court sustains the order, the court shall fix a time within which the order shall be enforced. Otherwise, the court shall annul or set aside the order declaring the property to be uninhabitable.

(h) An appeal from the judgment of the district court may be taken by any party to the proceeding in accordance with the Wyoming Rules of Appellate Procedure.

Exceptions to Property Use Restrictions

- WYO. STAT. ANN. § 35-9-156(d) (2008): (d) The incident commander shall declare an incident ended when he has determined the threat to public health and safety has ended. Until the incident commander has declared the threat to public safety has ended the incident commander shall have the authority to issue an order on behalf of the political subdivision that any portion of the building, structure or land is uninhabitable, secure the portion of the building, structure or land that is uninhabitable and take appropriate steps to minimize exposure to identified or suspected contamination at the site or premise. If the subject of the site or premise is commercial real estate, the incident commander shall limit the declaration of uninhabitable to the areas affected by the clandestine laboratory operation and shall not declare the entire commercial real estate uninhabitable unless the entire commercial property has been documented and determined uninhabitable using the standards promulgated by the state emergency response commission under W.S. 35-9-153(h). The incident commander shall provide written notice to the commercial real estate owner, describing with specificity the extent of the commercial property deemed uninhabitable. Any property that is ordered uninhabitable under this subsection shall only be transferred or sold prior to remediation if full, written disclosure is made to the prospective purchaser, attached to the earnest money receipt if any, and shall accompany

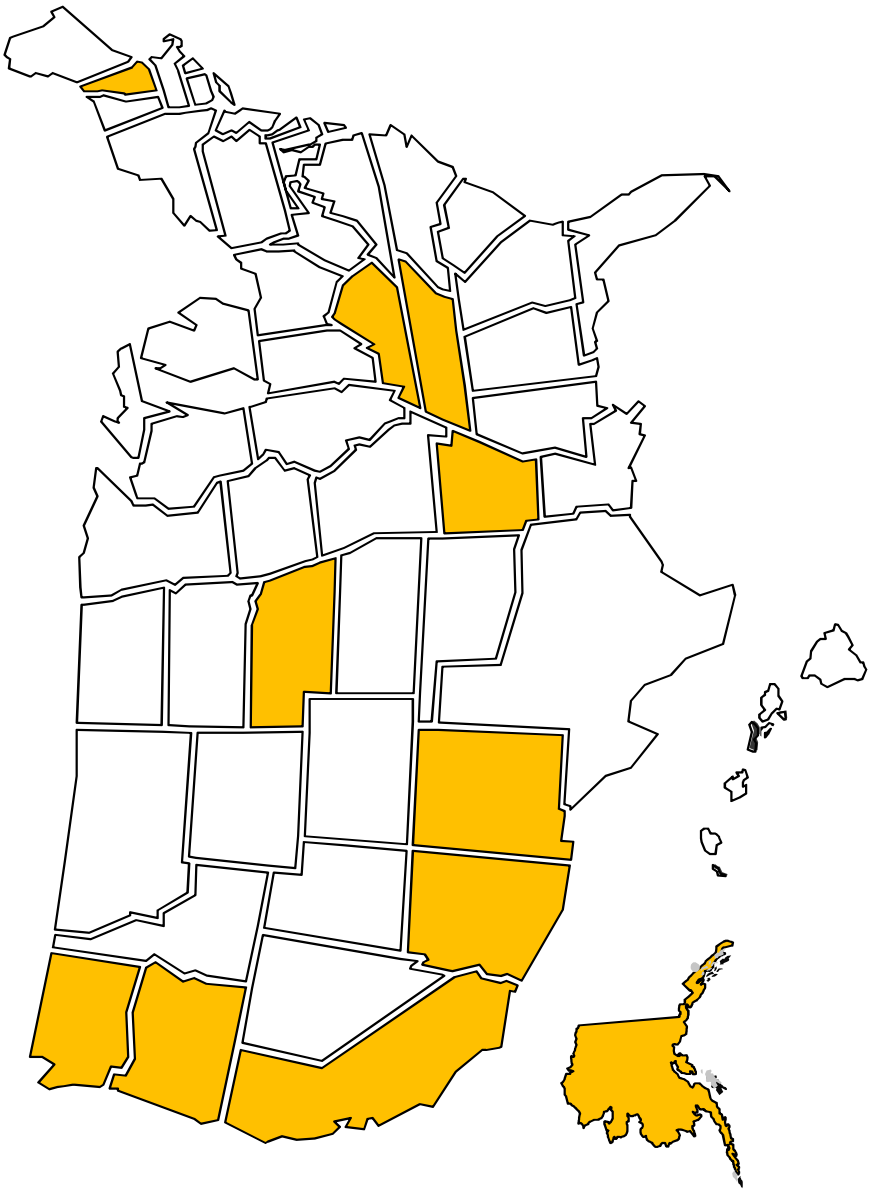
the sale documents but not be a part of the deed nor shall it be recorded. The transferor or seller shall notify the incident commander of the transfer or sale within ten (10) days of the transfer or sale.

PENALTIES

As a means of enforcing state remediation requirements, states create both civil fines and criminal penalties for failing to comply with state statutes and regulations pertaining to contaminated properties. Generally, fines and penalties are imposed for: (1) violating prohibitions on use, occupancy or transfer of a property; (2) disturbing the posted notice, (3) failing to provide notice or disclosure to prospective tenants, purchasers, and customers; and (4) failing to comply with remediation standards.

Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

STATES WITH STATUES OR REGULATIONS THAT ESTABLISH CIVIL OR CRIMINAL PENALTIES FOR NON-COMPLIANCE



PENALTIES

ALABAMA

- NOT FOUND

ALASKA

Civil

- NOT FOUND

Criminal

- ALASKA STAT. § 46.03.510(c)-(d) (2008): (c) A person who knowingly transfers, sells, leases, or rents property to another, knowingly allows another to use or occupy property, or, being the owner of property, knowingly occupies or uses the property in violation of this section is guilty of a class A misdemeanor. In this subsection, "knowingly" has the meaning given in AS 11.81.900(a).

  (d) It is an affirmative defense to a prosecution under (c) of this section for allowing another to use or occupy the property that the defendant or an agent of the defendant, within four days after receiving a notice under AS 46.03.500, filed an appropriate civil action to remove the user or occupier from the property for which the notice was received.

ARIZONA

Civil

- ARIZ. REV. STAT. ANN. § 12-1000(G) (2008): G. If an owner fails to provide any notice required by this section, the owner is subject to a civil penalty of one thousand dollars and is liable for any harm resulting from the owner's failure to comply with the requirements of this section.

Criminal

- ARIZ. REV. STAT. ANN. § 12-1000(J) (2008): J. A person who knowingly violates an order or notice of removal that is issued by a peace officer under this section is guilty of a class 6 felony. A person who knowingly disturbs a notice of removal posted on the real property is guilty of a class 2 misdemeanor.

ARKANSAS

Civil

- NOT FOUND

Criminal

PENALTIES

- ARK. CODE ANN. § 8-7-1407 (West 2007): A person who pleads guilty or nolo contendere to or is found guilty of violating § 8-7-1405(d)(7)(D) or § 8-7-1405(d)(7)(E) is guilty of a class B misdemeanor.

CALIFORNIA

Civil

- CAL. HEALTH & SAFETY CODE § 25400.45 (West 2008): (a) A property owner who does not provide a notice or disclosure required by this chapter is subject to a civil penalty in an amount of up to five thousand dollars ($5,000). A property owner shall also be assessed the full cost of all harm to public health or to the environment resulting from the property owner's failure to comply with this chapter.

  (b) A person who violates an order issued by a local health officer pursuant to this chapter prohibiting the use or occupancy of a property or a portion thereof contaminated by a methamphetamine laboratory activity is subject to a civil penalty in an amount of up to five thousand dollars ($5,000).

Criminal

- NOT FOUND

COLORADO

- NOT FOUND

CONNECTICUT

- NOT FOUND

DELAWARE

- NOT FOUND

FLORIDA

- NOT FOUND

GEORGIA

- NOT FOUND

HAWAII

- NOT FOUND

IDAHO

- NOT FOUND

PENALTIES

ILLINOIS
- NOT FOUND

INDIANA
- NOT FOUND

IOWA
- NOT FOUND

KANSAS
- NOT FOUND

KENTUCKY

Civil
- NOT FOUND

Criminal
- KY. REV. STAT. ANN. § 224.99-010(14)-(15) (West 2007) (as amended by HB 765): (14) Any person who removes a methamphetamine contamination notice posted under subsection (9) of Section 1 of this Act contrary to the administrative regulations governing methamphetamine contamination notice removal shall be guilty of a Class A misdemeanor.

  (15) Any person who leases, rents, or sells a property that has been determined to be contaminated property under subsection (4) of Section 1 of this Act to a lessee, renter, or buyer without giving written notice that the property is a contaminated property pursuant to subsection (10) of Section 1 of this Act shall be guilty of a Class D felony.

LOUISIANA
- NOT FOUND

MAINE
- NOT FOUND

MARYLAND
- NOT FOUND

MASSACHUSETTS
- NOT FOUND

MICHIGAN
- NOT FOUND

MINNESOTA
- NOT FOUND

MISSISSIPPI
- NOT FOUND

MISSOURI
- NOT FOUND

MONTANA
- NOT FOUND

NEBRASKA

Civil
- NEB REV. STAT. § 71-2434(3) (2007): (3) The owner or owners of contaminated property shall not permit the human habitation or use of such property until the rehabilitation of such property has been completed and the property has been released for such habitation or use under this section. An owner who knowingly violates this subsection may be subject to a civil penalty not to exceed one thousand dollars. The department shall enforce this subsection.

Criminal
- NOT FOUND

NEVADA
- NOT FOUND

NEW HAMPSHIRE

Civil
- NOT FOUND

Criminal
- N.H. REV. STAT. ANN. § 318-D:3 (West 2008): I. A person shall be guilty of an offense if that person recklessly causes serious bodily injury to a law enforcement officer, firefighter, emergency medical technician, ambulance operator, ambulance attendant, or social worker, civilian government employee, or hazardous material contractor acting in

his or her official duties, as a result of the hazards posed by the person's conduct in manufacturing or attempting to manufacture methamphetamine. For purposes of this section, a person who takes any substantial step towards the manufacture of methamphetamine acts recklessly.

II. A person convicted of an offense under this section may be sentenced to imprisonment for not more than 20 years, or a fine of not more than $300,000 or both.

NEW JERSEY

- NOT FOUND

NEW MEXICO

Civil

- N.M. CODE R. § 20.4.5.20(A) (Weil 2008): A. Failure to comply with the remediation standards required by this part may result in enforcement proceedings under Section 74-4-10 NMSA 1978, including but not limited to the following actions.

  (1) Issuing a compliance order requiring compliance immediately or within a specified time period or assessing a civil penalty up to $10,000 per day of noncompliance for each violation or both.

  (2) Commencing a civil action in district court for appropriate relief, including a temporary or permanent injunction…

Criminal

- N.M. CODE R. §20.4.5.20(B) (2008): B. A person who fails to comply with the remediation standards required by this part is guilty of a petty misdemeanor under Section 74-1-10 NMSA 1978.

NEW YORK

- NOT FOUND

NORTH CAROLINA

- NOT FOUND

NORTH DAKOTA

- NOT FOUND

OHIO

- NOT FOUND

PENALTIES

OKLAHOMA

- NOT FOUND

OREGON

Civil

- OR. REV. STAT. ANN. § 453.995 (2007): (1) In addition to any other liability or penalty provided by law, the Department of Human Services may impose a civil penalty on a person for violation of:

  (a) ORS 453.885; or

  (b) ORS 453.005 to 453.135 or rules adopted under ORS 453.005 to 453.135 by the department.

  (2) A civil penalty imposed under this section may not exceed $2,000.

  (3) ORS 183.745 applies to civil penalties imposed under this section.

Criminal

- OR. REV. STAT. ANN. § 453.990 (2007): (1) Any violation of ORS 453.175 or 453.185 or any rules of the State Board of Pharmacy thereunder is a Class C misdemeanor.

  (2) Violation of any of the provisions of ORS 453.005 to 453.135 is a Class B misdemeanor. A second and subsequent violation of any of the provisions of ORS 453.005 to 453.135 is a Class A misdemeanor.

  (3) Violation of any provision of ORS 453.605 to 453.800 is a Class A misdemeanor.

  (4) In addition to the provisions of ORS 453.882 regarding enjoinder and abatement, a person who knowingly uses property that has been determined to be not fit for use pursuant to ORS 105.555, 431.175 and 453.855 to 453.912 as if it were fit for use commits a Class B misdemeanor.

  (5) Violation of ORS 453.885 (2) is a Class B misdemeanor.

PENNSYLVANIA

- NOT FOUND

RHODE ISLAND

- NOT FOUND

SOUTH CAROLINA
- NOT FOUND

SOUTH DAKOTA
- NOT FOUND

TENNESSEE

Civil
- NOT FOUND

Criminal
- TENN. CODE ANN. § 68-212-503(d) (West 2008): (d) It is prohibited for any person to inhabit quarantined property, to offer such property to the public for temporary or indefinite habitation, or to remove any signs or notices of the quarantine. Any person who willfully violates this subsection (d) commits a Class B misdemeanor.

TEXAS
- NOT FOUND

UTAH
- NOT FOUND

VERMONT
- NOT FOUND

VIRGINIA
- NOT FOUND

WASHINGTON

Civil
- NOT FOUND

Criminal
- WASH. REV. CODE ANN. § 64.44.040(2) (West 2008): (2)(a) It is unlawful for any person to enter upon any property, or to remove any property, that has been found unfit for use by a local health officer pursuant to RCW 64.44.030.

(b) This subsection does not apply to: (i) Health officials, law enforcement officials, or other government agents performing their official duties; (ii) authorized contractors or owners performing decontamination pursuant to authorization by the local health officer; and (iii) any person acting with permission of a local health officer, or of a superior court or hearing examiner following an appeal of a decision of the local health officer.

(c) Any person who violates this subsection is guilty of a misdemeanor.

- H.R. 2817, 2008 Leg., 60th Sess. (Wa. 2008): (1) The Washington state department of licensing shall take action to place notification on the title of any motor vehicle as defined in 46.04.320, a vehicle as defined in RCW 46.04.670, or a vessel as defined in RCW 88.02.010, that the vehicle or vessel has been declared unfit and prohibited from use by order of the local health officer under this chapter. When satisfactory decontamination has been completed and the contaminated property has been retested according to the written work plan approved by the local health officer, a release for reuse document shall be issued by the local health officer, and the department of licensing shall place notification on the title of that vehicle or vessel as having been decontaminated and released for reuse.

  (2)(a) A person is guilty of a gross misdemeanor if he or she advertises for sale or sells a motor vehicle as defined in RCW 46.04.320, a vehicle as defined in RCW 46.04.670, or a vessel as defined in RCW 88.02.010, that has been declared unfit and prohibited from use by the local health officer under this chapter when:

  (i) The person has knowledge that the local health officer has issued an order declaring the vehicle or vessel unfit and prohibiting its use; or

  (ii) A notification has been placed on the title under subsection (1) of this section that the vehicle or vessel has been declared unfit and prohibited from use.

  (b) A person may advertise or sell a vehicle or vessel when a release for reuse document has been issued by the local health officer under this chapter or a notification has been placed on the title under subsection (1) of this section that the vehicle or vessel has been decontaminated and released for reuse.

WEST VIRGINIA

- NOT FOUND

WISCONSIN

- NOT FOUND

WYOMING

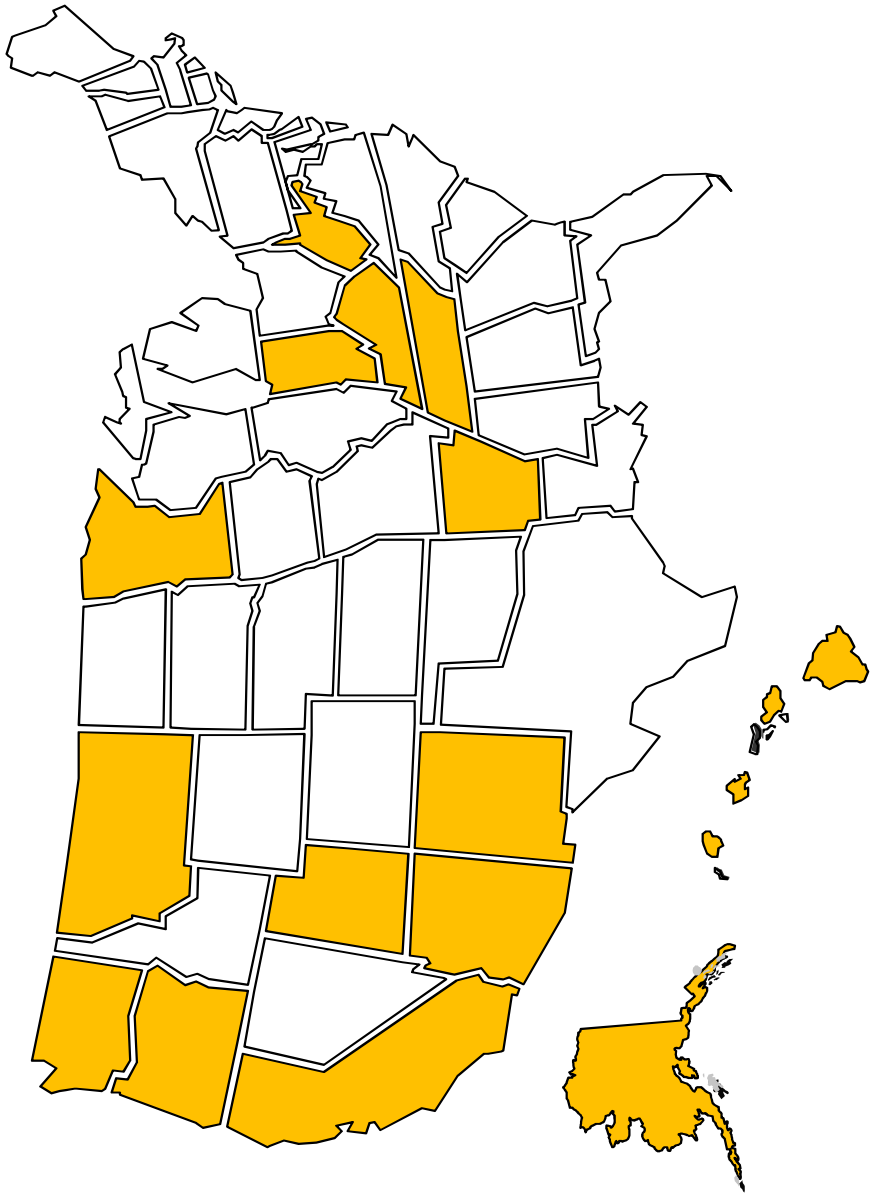
- NOT FOUND

REMEDIAITON CONTRACTOR REQUIREMENTS

This section contains language that outlines initial state requirements to be a remediation contractor or firm, and renewal or continuing education requirements. The remediation contractor and firm requirements provided in this compilation are not exhaustive. Rather, they are an indication of the most basic/fundamental requirements that a state may currently have in place in order for individuals to be licensed to clean illegal drug manufacturing sites. While some language may be included regarding reciprocal licensure, complete reciprocal licensure language has not specifically been included. The reader is encouraged to contact the appropriate state authority or licensing agency to determine all necessary educational and training requirements, including reciprocal licensure requirements, for remediation contractors and firms.

Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

STATES WITH STATUES, REGULATIONS OR GUIDELINES THAT ESTABLISH REMEDIAITON CONTRACTOR REQUIREMENTS



REMEDIATION CONTRACTOR REQUIREMENTS

ALABAMA

- NOT FOUND

ALASKA

- Alaska Department of Environmental Conservation, *Guidance and Standards for Cleanup of Illegal Drug-Manufacturing Sites* [Revision 1], 3-1 to3-2 (Apr. 19, 2007): Alaska regulations allow for the decontamination or cleanup of the property and the subsequent sampling to be conducted by the property owner. While this may be an option, the ADEC strongly recommends that the property owner consider utilizing qualified personnel; e.g., HAZMAT or remediation contractors for decontamination, and environmental or health professionals for confirmation sampling. Small former illegal drug laboratory operations may not require professional assistance for decontamination activities; however, in most instances, the application of field-screening technology and sampling protocols requires professional experience and qualification…Property owners may not employ workers without requisite Hazardous Waste Operations and Emergency Response (HAZWOPER) training and certification specified by regulations contained in 29 Code of Federal Regulations 1910.120.

- Alaska Department of Environmental Conservation, *Guidance and Standards for Cleanup of Illegal Drug-Manufacturing Sites* [Revision 1], 3-3 (Apr. 19, 2007): If a HAZMAT or remedial contractor is hired to perform the decontamination, ADEC recommends that the property owner confirm that the contractor meets the following requirements:

  (1) The contractor should be licensed, insured, and bonded (for the assurance of the property owner).

  (2) The contractor must provide a supervisor and site workers who are certified for working with HAZMAT. At a minimum, the supervisor and site workers are required to have completed Occupational Safety and Health Administration (OSHA) 40-hour HAZWOPER training (& current on required refresher training).

  (3) The contractor must provide suitable PPE for all personnel involved in cleanup operations, including appropriate respiratory protection for a Level C response if site conditions warrant it. Use of respirators requires a physician's statement, fit testing, and respiratory protection training.

  If a property owner hires an individual (independent of a qualified company or contractor) to assist with the decontamination of his or her property, the owner assumes the responsibilities as an employer. As such, any workers employed by or assisting the

property owner are required to be HAZWOPER trained. These responsibilities are mandated and defined by OSHA. ADEC recommends that the property owner contact an OSHA representative to ensure that these legal obligations are met.

ARIZONA

- ARIZ. REV. STAT. ANN. § 32-141 (2008): A. A firm shall not engage in the practice of any board regulated profession or occupation unless the firm is registered with the board and the professional services are conducted under the full authority and responsible charge of a principal of the firm, who is also a registrant.

  B. A person shall file a registration application for each branch office that is located in this state and that is part of a firm registered with the board. The branch office application shall list a designated registrant having full authority and responsible charge of the professional services of that branch office. The designated registrant in a branch office need not be a principal of the firm.

  C. A firm wishing to offer professional services in this state shall file with the board an application for registration on a form provided by the board and accompanied by the appropriate application fee as prescribed by the board. Firms shall also identify responsible registrants by the registrant's registration certificate number. Each firm shall list a description of the services the firm is offering to the public. The board shall be notified in writing within thirty days of any change occurring in the registered principals, any change in the firm's name or address or any change in a branch office address or designated registrant. A new application shall be filed each year by the firm within thirty days of the anniversary date of the original firm registration.

  D. No firm may advertise its availability to perform home inspections by home inspectors certified pursuant to this chapter unless each home inspection is performed by a home inspector certified pursuant to this chapter and each home inspection report is prepared as a result of the inspector's on-site observation.

  E. A drug laboratory site remediation firm shall provide both of the following:

  1. The name of the on-site supervisor who is authorized and responsible for the services being offered.

  2. Proof that the firm is licensed by the registrar of contractors pursuant to chapter 10 of this title.

REMEDIATION CONTRACTOR REQUIREMENTS

- ARIZ. ADMIN. CODE § R4-30-271 (2008): An applicant for on-site supervisor certification shall submit an original and one copy of a completed application package that contains the following:

  1. Name, residence address, mailing address if different from residence address, and telephone number;

  2. Date of birth and social security number of the applicant;

  3. Citizenship or legal residence;

  4. State or jurisdiction in which any other professional or occupational certification, registration, or license is held by the applicant, type of certification, registration, or license, number, and year granted;

  5. The name of the state or jurisdiction, the type of professional or occupational certification, registration, or license the applicant is seeking, and the status of any professional or occupational certification, registration, or license application pending in any state or jurisdiction;

  6. A detailed explanatory statement, regarding:

  a. Refusal of professional or occupational certification, registration, or license by any state or jurisdiction;

  b. Any pending disciplinary action in any state or jurisdiction on any professional or occupational certification, registration, or license held by the applicant;

  c. Any alias or other name used by the applicant;

  d. Any conviction for a felony or misdemeanor, other than a minor traffic violation; and

  e. Any disciplinary action taken by any state or jurisdiction on any professional or occupational registration, certification, or license held by the applicant in any state or jurisdiction.

  7. Certification that the information provided to the Board is accurate, true, and complete;

  8. A copy of a current 40-hour HAZWOPER training certificate or a copy of a current 8-hour HAZWOPER refresher certificate and a copy of a 40-hour HAZWOPER training certificate;

9. Documentation of 12 months or more of on-site experience in hazardous chemical decontamination projects and a copy of a HAZWOPER certificate that shows the applicant held valid HAZWOPER certification during the 12 months of experience;

10. Documentation of current AHERA contractor or supervisor certification or a copy of a current AHERA refresher certificate and a copy of an AHERA contractor or supervisor training certificate;

11. Documentation of successful completion of a lead training course that meets the requirements of 29 CFR 1926.62(1), effective January 8, 1998, 63 FR 1296, the provisions of which are incorporated by reference and on file with the Secretary of State, copies of which are available at the office of the Board of Technical Registration;

12. A signed release authorizing the Board to investigate the applicant's education, experience, and moral character and repute; and

13. The applicable fee.

B. Beginning September 30, 2003, an applicant for renewal of on-site supervisor certification shall submit an application package that contains:

1. A completed renewal application form provided by the Board, signed and dated by the registrant that provides the information contained in subsections (A)(1), (2), (6), and (7);

2. A copy of the registrant's current 8-hour HAZWOPER refresher certificate;

3. A copy of the registrant's current AHERA refresher certificate;

4. For the first annual renewal, documentation of successful completion of an 8-hour training course approved by the Board that encompasses the following:

a. Clandestine Drug Laboratory Site Remediation Best Standards and Practices contained in R4-30-305;

b. Chemical and physical hazards of a clandestine drug laboratory;

c. Typical manufacturing methods for methamphetamine, LSD, and ecstasy;

d. Typical flammable, combustible, corrosive, and reactive materials used in a clandestine drug laboratory;

e. Potential sharps and biohazards at a clandestine drug laboratory;

f. Proper handling and disposal of wastes from the remediation of a clandestine drug laboratory; and

g. Other potential hazards or dangers that can be associated with a clandestine drug laboratory;

5. For the first annual renewal, documentation of successful completion of an 8-hour training course approved by the Board that encompasses the following:

a. Hazardous and precautionary measures for initial entry into a clandestine drug laboratory site;

b. Assessment of residual contamination;

c. Preparation of the work plans for remediation of a clandestine drug laboratory;

d. Assessment of the structural stability for safe entry into a clandestine drug laboratory site;

e. Characterizing waste from the remediation of a clandestine drug laboratory; and

f. Preparing final reports on the remediation of the clandestine drug laboratory;

6. For the second and all subsequent annual renewals, documentation of successful completion of a 2-hour refresher training course approved by the Board that encompasses the following:

a. Clandestine Drug Laboratory Site Remediation Best Standards and Practices contained in R4-30-305;

b. Hazardous and precautionary measures for initial entry into a clandestine drug laboratory site;

c. Preparation of the work plan for remediation of a clandestine drug laboratory;

d. Assessment of the structural stability for safe entry into a clandestine drug laboratory site;

e. Characterizing waste from the remediation of a clandestine drug laboratory; and

f. Preparing the final report on the remediation of a clandestine drug laboratory;

7. The applicable fee.

C. The Board staff shall review all applications and, if necessary, refer completed applications to the Environmental Remediation Rules and Standards Committee for evaluation. If the application is complete and in the proper form, and the Board staff or committee is satisfied that all statements on the application are true and that the applicant is eligible in all other aspects to be certified, the Board staff or committee shall recommend that the Board certify the applicant. If for any reason the Board staff or committee is not satisfied that all of the statements on the application are true, the Board staff shall make a further investigation of the applicant. The Board staff or committee shall submit recommendations to the Board for approval. The Board may also require a applicant to submit additional oral or written information if the applicant has not furnished satisfactory evidence of qualifications for certification.

- ARIZ. ADMIN. CODE § R4-30-272 (2008): A. An applicant for on-site worker certification shall submit an original and one copy of a completed application package that contains the following:

  1. Name, residence address, mailing address if different from residence address, and telephone number;

  2. Date of birth and social security number of the applicant;

  3. Citizenship or legal residence;

  4. State or jurisdiction in which any professional or occupational certification, registration, or license is held by the applicant, type of certification, registration, or license, number, and year granted;

  5. Name of the state or jurisdiction, the type of professional or occupational certification, registration, or license the applicant is seeking, and the status of any professional or occupational application pending in any state or jurisdiction;

  6. A detailed explanatory statement regarding:

  a. Any refusal of professional or occupational certification, registration, or license by any state or jurisdiction;

b. Any pending disciplinary action in any state or jurisdiction on any professional or occupational certification, registration, or license held by the applicant;

c. Any alias or other name used by the applicant;

d. Any conviction for a felony or misdemeanor, other than a minor traffic violation; and

e. Any disciplinary action taken by any state or jurisdiction on any professional or occupational certification, registration, or license held by the applicant in any state or jurisdiction;

7. Certification that the information provided to the Board is accurate, true, and complete;

8. Copy of a current 40-hour HAZWOPER training certificate or copy of a current 8-hour HAZWOPER refresher certificate and a copy of a 40-hour HAZWOPER training certificate;

9. A signed release authorizing the Board to investigate the applicant's education, experience, and moral character and repute; and

10. The applicable fee.

B. Effective September 30, 2003, an applicant for renewal of on-site worker certification shall submit an application package that contains:

1. A completed renewal application form provided by the Board, signed and dated by the applicant that provides the information contained in subsections (A)(1), (2), (6) and (7);

2. A copy of the applicant's current 8-hour HAZWOPER refresher certificate;

3. For the first annual renewal, documentation of successful completion of an 8-hour training course approved by the Board that encompasses the following:

a. Clandestine Drug Laboratory Site Remediation Best Standards and Practices contained in R4-30-305;

b. Chemical and physical hazards of a clandestine drug laboratory;

c. Typical manufacturing methods for methamphetamine, LSD, and ecstasy;

d. Typical flammable, combustible, corrosive, and reactive materials used in a clandestine drug laboratory;

e. Potential sharps and biohazards at a clandestine drug laboratory;

f. Proper handling and disposal of wastes from the remediation of a clandestine drug laboratory; and

g. Other potential hazards or dangers that can be associated with a clandestine drug laboratory;

4. The applicable fee.

C. The Board staff shall review all applications and, if necessary, refer completed applications to the Environmental Remediation Rules and Standards Committee for evaluation. If the application is complete and in the proper form, and the Board staff or committee is satisfied that all statements on the application are true and the applicant is eligible in all other respects to be certified, the Board staff or committee shall recommend that the Board certify the applicant. If for any reason the Board staff or committee is not satisfied that all of the statements on the application are true, the Board staff shall make a further investigation of the applicant. The Board staff or committee shall submit recommendations to the Board for approval. The Board may also require an applicant to submit additional oral or written information if the applicant has not furnished satisfactory evidence of qualifications for certification.

ARKANSAS

- 32-00 ARK. CODE R. § 301 (Weil 2008): (A) An applicant seeking certification to be listed as a Phase I Consultant shall submit an application on forms provided by the Department and shall pay the applicable application fees.

  (B) Persons seeking certification as a Phase I Consultant shall possess sufficient specific education, training, and experience necessary to exercise professional judgment to develop opinions and conclusions regarding conditions indicative of releases or threatened releases on, at, in, or to a property, sufficient to meet the objectives and performance factors for all appropriate inquiries set forth in 40 CFR 312.20; and shall demonstrate this by meeting at least one of the following combinations of education and experience:

  (1) Hold a current Professional Engineer's or Professional Geologist's license or registration; and have the equivalent of three (3) years of full-time relevant experience; or

(2) Have a Bachelor's or higher degree from an accredited institution of higher education in a relevant discipline of engineering or science and the equivalent of five (5) years of full-time relevant experience; or

(3) Have a high school diploma or general equivalency diploma and at least ten (10) years of full-time relevant experience; or

(4) Be licensed or certified by the federal government, a state, tribe, or U.S. territory (or the Commonwealth of Puerto Rico) to perform environmental inquiries as defined in 40 CFR 312.21 and have the equivalent of three (3) years of full-time relevant experience.

(C) Relevant experience shall be demonstrated by the submittal of an application for certification documenting the applicant's experiences and qualifications as prescribed by § 32.301(B) above.

(D) Applicants shall also submit, as part of the application for certification, a Disclosure Statement in accordance with the disclosure statement provisions of APC&EC Regulation No. 8. The Disclosure Statement shall also certify that neither the individual nor the individual's employer have been convicted of or plead guilty to an environmental crime or offense, or any related criminal offense.

(E) The Department may request and review additional relevant information about the applicant or application in order to properly process the application.

(F) Upon demonstration of compliance with the criteria, the applicant shall be eligible for certification and listing as a Phase I Consultant under this subchapter.

- 32-00 ARK. CODE R. § 402 (Weil 2008): (A) Persons seeking certification as a Clandestine Laboratory Remediation Contractor shall maintain the following information for all employees who perform decontamination and/or cleanup work of former clandestine laboratories:

  (1) Copy of a current OSHA 40-hour HAZWOPER training certificate (29 CFR 1910.120(e)) or copy of a current HAZWOPER 8-hour refresher certificate if it has been over 12 months since the initial training; and

  (2) Documentation of successful completion of an 8-hour training course approved by the Department that encompasses the following areas:

  (a) Clandestine Drug Laboratory Site Remediation Best Standards and Practices;

(b) Hazardous and precautionary measures for initial and subsequent entry into a clandestine drug laboratory site;

(c) Preparation of the work plan for remediation of a clandestine drug laboratory;

(d) Typical manufacturing methods for controlled substances;

(e) Chemical and physical hazards of a clandestine drug laboratory;

(f) Typical flammable, combustible, corrosive, and reactive materials used in a clandestine drug laboratory;

(g) Sampling waste from the remediation of a clandestine drug laboratory;

(h) Preparing the final report on the remediation of a clandestine drug laboratory;

(i) Potential sharps and biohazards at a clandestine drug laboratory;

(j) Proper handling and disposal of wastes from the remediation of a clandestine drug laboratory; and

(k) Other potential hazards or dangers that can be associated with a clandestine drug laboratory.

(3) Supervisory personnel shall, in addition to the eligibility requirements of §§ 32.402(A)(1-2) above, shall comply with OSHA HAZWOPER supervisor training requirements of 29 CFR 1910.120(e).

(B) ADEQ may request and review additional information about the applicant or application in order to properly process the application.

(C) Upon demonstration of compliance with the criteria, the applicant shall be eligible for certification and listing as a Certified Clandestine Laboratory Remediation Contractor under this Regulation.

- 32-00 ARK. CODE R. § 601 (Weil 2008): (A) Certification and listing under the provisions of this Regulation to an individual shall be valid for two (2) years (or portion thereof) from July 1st of the year the Department adds the individual to the list of certified environmental professionals or Certified Clandestine Laboratory Remediation Contractors.

(B) After June 1 of the second year after the Department adds a person to the list of certified environmental professionals or Certified Clandestine Laboratory Remediation Contractors under the provisions of this Regulation, the person must re-apply to the Department for renewal.

(C) A holder of a certificate who wishes to renew his or her certification shall:

(1) Submit an application for renewal to the Department, demonstrating that the consultant continues to meet the applicable qualifications for certification and listing as prescribed in Chapter 3 and Chapter 4 of this Regulation, on forms provided by the Department;

(2) Submit a nonrefundable fee in the form of a money order, cashier's check, or other payment method determined by the Department in the amount set forth at § 32.606 of this Regulation; and

(3) Complete and submit documentation of continuing education training of the type and amount as set forth at § 32.605 of this Regulation**.**

- 32-00 ARK. CODE R. § 605 (Weil 2008): (A) Phase I consultants and Certified Clandestine Laboratory Remediation Contractors shall remain current in their field through participation in continuing education or other activities.

  (B) Definitions. As used in this Subsection, the following terms are defined as follows:

  (1) Professional Development Hours (PDH) – A contact hour (nominal) of instruction or presentation. The common denominator for other units of credit.

  (2) Continuing Education Unit (CEU) – Unit of credit customarily used for continuing education courses. One continuing education unit equals ten (10) hours of classroom experience in an approved education course.

  (3) College/Unit Semester/Quarter Hour – Credit for an approved college course.

  (4) Course/Activity – Any qualifying course or activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the certified contractor or consultant's field of practice.

  (C) Requirements:

REMEDIATION CONTRACTOR REQUIREMENTS

(1) Every Phase I consultant shall be required to report a cumulative of fifteen (15) PDH units per year for each renewal period. If a registrant exceeds the annual requirement in any renewal period, a maximum of fifteen (15) PDH units may be carried forward into the subsequent renewal period.

(2) Certified Clandestine Laboratory Remediation Contractors seeking biennial renewal of their certificate shall annually conduct and maintain documentation for the successful completion of:

(a) At least 8 hours of OSHA HAZWOPER refresher training as prescribed by 29 CFR 1910.120(e); and

(b) At least 8 hours of additional training related to clandestine laboratory investigation or remediation.

(D) PDH units may be earned as follows:

(1) Successful completion of college courses.

(2) Successful completion of continuing education courses.

(3) Successful completion of correspondence, televised, videotaped, audiotape, and other short courses/tutorials.

(4) Presenting or attending qualifying seminars, in-house courses, work shops, or professional, technical, or managerial presentations made at meetings, conventions, or conferences.

(E) Units – The conversion of other units of credit to PDH Units are as follows:

(1) 1 College or unit semester course —30 PDH

(2) 1 College or unit quarter course —15 PDH

(3) 1 Continuing Education Unit — 10 PDH

(4) 1 Hour of professional development in course work, seminars, or professional, or management, or technical presentations made at meetings, conventions or conferences: – – 1 PDH

(5) For teaching items 1 through 4 above, apply a multiple of 2 (teaching credit is valid for teaching a course or seminar for the first time only).

(F) Determination of Credit – The Department has final authority with respect to approval of courses, credit, PDH value for courses, and other methods of earning credit.

(1) Credit for college or community college approved courses will be based upon credit established by the college.

(2) Credit for qualifying seminars and workshops will be based on one PDH unit for each hour of attendance. Attendance at qualifying programs presented at professional and/or technical society meetings will earn PDH units for the actual time of each program.

(3) The types of training and continuing education required by this Chapter which may be eligible for approval include instructional courses, seminars or conferences sponsored by the Department, the Environmental Protection Agency, educational institutions, independent professional or trade associations, manufacturers, or firms engaged in environmental site assessment or hazardous substance management or remediation.

(4) Course content must be related to work performed by persons performing environmental site assessment or hazardous substance management or remediation.

(G) Training Records. Each Phase I consultant or Certified Clandestine Laboratory Remediation Contractor shall maintain records to document his or her qualifications and continuing education participation. The responsibility of maintaining records to be used to support credits clamed is the responsibility of the Phase I consultant or the Certified Clandestine Laboratory Remediation Contractor. Records required include, but are not limited to:

(1) A log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned; or

(2) Attendance verification records in the form of completion certificates, or other documents supporting evidence of attendance furnished by the organization sponsoring the approved training or continuing education.
These records must be maintained for a period of three (3) years or in compliance with any applicable state requirements, and copies may be requested by the Department for audit verification purposes.

(H) Exemptions. A person may be exempt from the professional development education requirements for one of the following reasons:

(1) A person serving on temporary active duty in the Armed Forces of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a year shall be exempt from obtaining professional development hours required during that year.

(2) Persons experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the Department may be exempt. Supporting documentation must be furnished to the Department.

(I) Noncompliance. The certification of a person who does not satisfy the continuing education requirements at renewal time will be suspended and the certificate holder notified of that status. The Consultant will have six (6) months from the renewal date to satisfy that condition or his or her certification will be revoked.

CALIFORNIA

- CAL. HEALTH & SAFETY CODE § 25400.40 (West 2006): (a) A person shall not perform a preliminary site assessment or any remediation work pursuant to this chapter, including a decontamination, demolition, or disposal, unless the person has completed all of the following:

  (1) Initial training pursuant to subparagraph (A) of paragraph (3) of, or paragraph (4) of, subdivision (e) of Section 5192 of Title 8 of the California Code of Regulations, as applicable. That training shall include elements listed pursuant to subparagraphs (A) to (G), inclusive, of paragraph (2) of subdivision (e) of Section 5192 of Title 8 of the California Code of Regulations.

  (2) Annual refresher training pursuant to paragraph (8) of subdivision (e) of Section 5192 of Title 8 of the California Code of Regulations.

  (3) Additional requirements as determined by the local health officer, or other applicable law.

  (b) Training specified in paragraphs (1) and (2) of subdivision (a) shall be certified pursuant to paragraph (6) of subdivision (e) of Section 5192 of Title 8 of the California Code of Regulations.

COLORADO

- NOT FOUND

CONNECTICUT

REMEDIATION CONTRACTOR REQUIREMENTS

- NOT FOUND

DELAWARE
- NOT FOUND

FLORIDA
- NOT FOUND

GEORGIA
- NOT FOUND

HAWAII
- Hawaii Department of Health, Hazard Evaluation & Emergency Response, *Technical Guidance Document for the Implementation of Chapter 452 of Title 11, Hawaii Administrative Rules, entitled "Requirements for Decontamination and Cleanup of Methamphetamine Manufacturing Sites"* [Draft Edition], 56 (Sept. 2007): If a HAZMAT or remedial contractor is hired to perform the decontamination, the HEER office recommends that the property owner confirm that the contractor meets the following requirements:

  The contractor should be licensed and bonded (for the assurance of the property owner).

  The contractor must provide a supervisor and site workers who are certified for working with HAZMAT. At a minimum, the supervisor and site workers are required to have completed OSHA 40-hour HAZWOPER training.

  The contractor must provide suitable PPE for all personnel involved in cleanup operations, including appropriate respiratory protection for a Level C response if site conditions warrant it. Use of respirators requires a physician's statement, fit testing, and respiratory protection training (as stated in 29 CFR 1910.134).

  If a property owner hires an individual (independent of a qualified company or contractor) to assist with the decontamination of his or her property, he or she assumes the responsibilities as an employer. As such, any workers employed by or assisting the property owner are required to be HAZWOPER trained. These responsibilities are mandated and defined by OSHA. The HEER Office recommends that the property owner contact an OSHA representative to ensure that these legal obligations are met.

IDAHO
- NOT FOUND

REMEDIATION CONTRACTOR REQUIREMENTS

ILLINOIS

- NOT FOUND

INDIANA

- 318 IND. ADMIN. CODE 1-4-2 (2008): (a) a qualified inspector must meet all of the criteria in this section.

  (b) A qualified inspector shall have accumulated at least forty (40) hours of experience doing any of the following:

  (1) Decontaminating contaminating properties.

  (2) Emergency response operations, cleanup or remediation operations, corrective actions, or operations involving hazardous wastes that are regulated under the regulations of the federal Occupational Safety and Health Administration at 29 CFR 1910.120.

  (c) A qualified inspector shall have received the training for supervisors required by the regulations of the federal Occupational Safety and Health Administration at 29 CFR 1910.120(e).

  (d) A qualified inspector shall have done all of the following:

  (1) Received training on decontamination and inspection of contaminated property provided by the department.

  (2) Passed an examination on the subject matter of the training provided by the department with a score of at least eighty percent (80%).

  (e) To remain on the qualified inspector list, each qualified inspector shall receive all of the following refresher training:

  (1) Eight (8) hour annual refresher training that meets the requirements of the regulations of the federal Occupational Safety and Health Administration at 29 CFR 1910.120(e)(8).

  (2) Biennial refresher training provided by the department.

  (f) Each qualified inspector shall maintain the following insurance:

  (1) Professional liability insurance in the amount of at least one million dollars ($1,000,000).

(2) Errors and omissions insurance in the amount of at least one million dollars ($1,000,000) per occurrence.

(3) Pollution prevention insurance in the amount of at least three million dollars ($3,000,000).

IOWA

- NOT FOUND

KANSAS

- NOT FOUND

KENTUCKY

- KY. REV. STAT. ANN. § 224.01-410(8)(a) (West 2007) (as amended by HB 765): (8) (a) Only contractors certified by the cabinet shall be authorized to conduct the decontamination services for inhabitable properties following the protocols of the tiered response system. The cabinet shall maintain a list of vendors and contractors with current certification to provide decontamination services. In order to become a certified contractor, a contractor shall:

  1. Register with the cabinet;

  2. Post a surety bond or obtain other financial assurance, which shall include but is not limited to a corporate guarantee, financial test-based self-insurance, irrevocable letter of credit, or any combination of assurances, in the amount of one hundred thousand dollars ($100,000) for a Tier 1, 2, or 3 cleanup and two hundred fifty thousand dollars ($250,000) for a Tier 4 cleanup, which may be aggregated;

  3. Provide a certificate issued by an insurance company licensed to do business in Kentucky, certifying that the contractor has a public liability insurance policy in an amount deemed sufficient by the cabinet for any personal or property damages that might occur to third parties arising from the performance of decontamination services for inhabitable properties by the contractor or his or her employees or agents;

  4. Certify that decontamination will be performed safely and in accordance with 803 KAR 2:403; and

  5. Certify that each cleanup conducted meets the decontamination standard required by subsection (3) of this section.

(b) Any contractor who is certified by the cabinet, and whose certification is in good standing, prior to the effective date of this Act shall retain that certification without having to be recertified.

(c) Upon registration, the cabinet shall either accept or deny the contractor's certification. The cabinet may revoke the certification of any contractor for cause and may collect the forfeited financial assurance of any contractor found to be in violation of this section. Forfeited financial assurance may be used by the cabinet to decontaminate inhabitable properties.

(d) The cabinet shall promulgate administrative regulations to establish standards and procedures for contractor certification and to establish reasonable fees to implement this section.

LOUISIANA

- NOT FOUND

MAINE

- NOT FOUND

MARYLAND

- NOT FOUND

MASSACHUSETTS

- NOT FOUND

MICHIGAN

- NOT FOUND

MINNESOTA

- Minnesota Department of Health and Minnesota Pollution Control Agency, *Clandestine Drug Lab General Cleanup Guidance*, 41 (Apr. 3, 2007): The Minnesota Department of Health (MDH) does not have the authority to qualify companies to conduct the cleanup of clandestine drug labs (CDL). MDH does not license, permit or recommend cleanup contractors; however, due to the hazardous materials associated with the manufacturing of methamphetamine, CDL are considered to be uncontrolled hazardous waste sites per Code of Federal Regulations (CFR) 1910.120. It is the contractor's responsibility to know and follow the requirements set forth by CFR 1910.120 and all other applicable regulations. Any company contacted to remediate a former CDL shall meet the following

requirements. This list of requirements is not an all-inclusive list and is a guide for the County and/or Local Authority and the property owners, who are not familiar with CFR 1910.120.

Project Manager and/or Site Supervisor shall have the following qualifications:

Professional registration or certification as a Professional Engineer (PE), Certified Industrial Hygienist (CIH), Certified Safety Planner (CSP) or a Certified Hazardous Materials Manager (CHMM), etc.

The 40 Hour HAZWOPER training,

The 8 Hour specialized supervisor training on such topics as, but not limited to, the employer's safety and health program and the associated employee-training program personal protective equipment program, spill containment program, and health hazard monitoring procedure and techniques,

Respiratory protection,

Confined space entry,

Meth-related training.

General site workers shall have the following qualifications:

The 24 Hour HAZWOPER training; however, if the action requires the use of a Self Contained Breathing Apparatus (SCBA), the worker shall require the 40 Hour HAZWOPER training.

Methamphetamine Right to Know delivered by the project manager and/or site supervisor

MISSISSIPPI

- NOT FOUND

MISSOURI

- NOT FOUND

MONTANA

REMEDIATION CONTRACTOR REQUIREMENTS

- MONT. ADMIN. R. 17.74.509 (2008): (1) An applicant for department certification as a CML decontamination worker shall successfully complete a basic decontamination worker course and submit to the department within 60 days after completing the course:

  (a) a completed CML decontamination worker application;

  (b) evidence of successful completion of hazardous waste operations and emergency response (HAZWOPER) training including the initial 40-hour HAZWOPER and current eight-hour HAZWOPER refresher training, conducted pursuant to 29 CFR 1910.120;

  (i) HAZWOPER training, required pursuant to (1)(b), must be completed prior to taking the basic decontamination worker course;

  (c) the fee prescribed in 17.74.518; and

  (d) evidence of successful completion of a department sponsored or approved basic CML decontamination worker course with a score of 70% or higher.

  (2) An applicant for department certification as a CML decontamination supervisor shall successfully complete the basic decontamination worker and decontamination supervisor courses and submit to the department within 60 days after completing the basic supervisor course:

  (a) a completed CML decontamination supervisor application;

  (b) evidence of successful completion of HAZWOPER training, including initial 40-hour HAZWOPER and current eight-hour HAZWOPER refresher, and HAZWOPER supervisor training, conducted pursuant to 29 CFR 1910.120;

  (c) the fee prescribed in 17.74.518;

  (d) evidence of a valid Montana CML decontamination worker certificate;

  (e) evidence of 40 or more hours of on-site experience in hazardous material or CML decontamination projects; and

  (f) evidence of successful completion of a department sponsored or approved basic CML decontamination supervisor course.

(3) The department may waive some or all of the experience requirements for an applicant for certification as a CML decontamination supervisor whose application is received by the department prior to April 1, 2007.

(4) Worker and supervisor CML decontamination certificates are valid for two years from the date of issuance.

(5) Workers and supervisors shall make certificates or proof of certification available for inspection at all times during a CML decontamination project that is being performed pursuant to this subchapter.

- MONT. ADMIN. R. 17.74.510 (2008): (1) An applicant for renewal of certification as a CML decontamination worker or supervisor shall successfully complete a department sponsored or approved refresher training course and submit to the department at least 30 days before expiration of the current certificate:

  (a) a completed application, on a form provided by the department, for certificate renewal;

  (b) the fee prescribed in 17.74.518; and

  (c) evidence of successful completion of a department sponsored or approved refresher training course with a score of 70% or higher.

  (2) If a previously certified worker applies for certification following expiration of the previous certificate, but less than two years after expiration of the previous certificate, the worker shall submit to the department:

  (a) a completed application, on a form provided by the department, for certificate renewal;

  (b) the fee prescribed in 17.74.518; and

  (c) evidence of successful completion of the most recent department sponsored or approved basic CML decontamination worker course with a score of 70% or higher.

  (3) If a previously certified supervisor applies for certification following expiration of the previous certificate, but less than two years after expiration of the previous certificate, the supervisor shall submit to the department:

(a) a completed application, on a form provided by the department, for certificate renewal;

(b) the fee prescribed in 17.74.518; and

(c) evidence of successful completion of the most recent department sponsored or approved basic CML decontamination supervisor course.

NEBRASKA

- NOT FOUND

NEVADA

- NOT FOUND

NEW HAMPSHIRE

- NOT FOUND

NEW JERSEY

- NOT FOUND

NEW MEXICO

- N.M. CODE R. § 20.4.5.16(A)(1) to (2) (Weil 2008): The evaluation and cleanup of residual contamination found at clandestine drug laboratories after chemicals and equipment have been removed shall meet the following standards.

  (1) Any preliminary assessment, remediation, and post-remediation assessment of a clandestine drug laboratory for the purpose of complying with this part shall be performed by a remediation firm that meets the requirements of this subsection. The department recommends that the remediation firm performing the preliminary and post-remediation assessments be a different firm than the one that performs the remediation, to ensure independent evaluation of work required and thoroughness of the remediation.

  (2) The remediation firm shall be under the direction of a certified industrial hygienist or be approved and currently registered to perform such work with a state, county, or municipal agency during the time the firm participates in the assessment or remediation of residual contamination. A firm's approval, certification, or registration with another state to perform assessments of residually contaminated properties will be accepted as meeting this requirement.

NEW YORK

REMEDIATION CONTRACTOR REQUIREMENTS

- NOT FOUND

NORTH CAROLINA
- NOT FOUND

NORTH DAKOTA
- NOT FOUND

OHIO
- NOT FOUND

OKLAHOMA
- NOT FOUND

OREGON
- OR. ADMIN. R. § 333-040-0110 (2008): (1) No person or entity shall advertise to undertake, or perform the work necessary to assess or decontaminate properties found to be unfit for use, without first complying with these rules and securing a license to do so pursuant to ORS 453.885(2), 453.888 and Oregon Laws 1999, chapter 861, section 3, except as set forth in section (2) of this rule or in OAR 333- 040-0065(2) and (3).

  (2) Before applying for a decontamination contractor license, a contractor must be registered, bonded and insured as a general contractor with the Construction Contractor's Board. Companies and persons providing only sample collection, transportation and testing services for drug laboratory decontamination contractors are not required to be licensed pursuant to these rules; however, a contractor shall supervise anyone providing sample collection as set forth in OAR 333-040-0130(1), and anyone providing sample collection services shall comply with the hazardous materials training required in section (5) of this rule and the qualification and training requirements of OAR 333-040-0135. Laboratories providing sample analysis shall comply with OAR 333-040- 0070(3)(a).

  (3) The contractor shall provide documentation to the Division that its supervisory personnel seeking training and certification as a drug laboratory decontamination supervisor have successfully completed at least 40 hours of hazardous materials training satisfying the requirements of OAR 437-002- 0100(18) and 29 CFR 1910.120(e). The contractor shall insure that only persons so qualifying are admitted for training, examination or on-site work as an illegal drug manufacturing site decontamination supervisor.

(4) Applicants shall demonstrate that all employees who will perform work on illegal drug manufacturing sites have completed a Division-sponsored specialized training course and have successfully passed the course examination with a score of seventy percent or greater.

(5) The contractor shall insure that its employees and agents who have on-site duties or who handle contaminated materials, chemicals or contaminated equipment, shall be trained as required by OAR 437-002-0100(18) and 29 CFR 1910.120(e) before engaging in assessment, testing or decontaminating illegal drug manufacturing sites. Refresher training as required by said rules and regulations shall be kept current.

(6) The contractor's supervisory employees performing on-site drug site decontamination activities shall successfully complete the initial training course required in section (4) of this rule and shall successfully complete refresher training specified by the Division every other year to renew their certification. The Division may also require more frequent training updates.

(7) The contractor's non-supervisory employees who have on-site exposure to properties found unfit for use shall receive specialized drug site decontamination training before having any on-site exposure, and must attend refresher training at least every other year to renew their certification. The contractor shall supply the Division with documentation of such training for each employee who enters an illegal drug manufacturing site. Training referred to in sections (6) and (7) of this rule is required in addition to the training required by State and Federal OSHA regulations referred to in section (5) of this rule.

(8) All contractors and all employees of any contractor shall carry identification provided by the Division attesting to their training credentials and level of training whenever performing duties at an illegal drug manufacturing site.

- OR. ADMIN. R. § 333-040-0130 (2007): (1) The contractor shall insure that at all times during site assessment and sampling activities on illegal drug manufacturing sites, a qualified supervisor employed by the contractor shall be on site and responsible for the activities performed. The Division may also require the presence of such a supervisor on these sites during decontamination activities. Supervisors shall at all times while on site carry identification provided by the Division attesting to their training and credentials.

  (2) An applicant for a decontamination license must demonstrate that it has one or more qualified supervisors on staff.

(3) A contractor may not perform any illegal drug manufacturing site activities unless the contractor has at least one certified supervisor.

PENNSYLVANIA

- NOT FOUND

RHODE ISLAND

- NOT FOUND

SOUTH CAROLINA

- NOT FOUND

SOUTH DAKOTA

- NOT FOUND

TENNESSEE

- TENN. COMP. R. & REGS. 12200-1-19.02(2) (2008): (2) Clean up of properties shall be performed by a professional or company certified by the Commissioner as being able to perform the services of cleaning up sites used to manufacture methamphetamines. Any person holding a certification from the American Board of Industrial Hygienist as a Certified Industrial Hygienist is deemed certified by this rule as being able to perform clean up services at these sites. Other persons may make a written request to the Commissioner seeking certification to perform these services.

TEXAS

- NOT FOUND

UTAH

- UTAH ADMIN. CODE r. § R311-500-5 (2008): (a) For initial and renewal certification, an applicant must:

  (1) Meet Occupational Safety and Health Agency safety training requirements in accordance with 29 CFR 1910.120 and any other applicable safety training, including refresher training, as required by federal and state law; and

  (2) Successfully pass a certification examination developed and administered under the direction of the Executive Secretary.

  (A) The contents of the initial certification examination and the renewal certification examination as well as the percentage of correct answers required to pass the

examinations shall be determined by the Executive Secretary before the tests are administered. The Executive Secretary may offer a less comprehensive renewal certification examination to those individuals that have completed a Division sponsored renewal-training course.

(B) The Executive Secretary shall determine the frequency and dates of the certification examinations.

(C) For applicants that fail the initial certification examination or the renewal certification examination, the Executive Secretary may offer one additional examination within one month of the original test date without requiring submittal of a new application. The applicant shall pay a fee determined by the Executive Secretary to cover the cost of the additional testing. Applicants that fail the re-examination shall wait six months prior to submitting a new application in accordance with R311-500-4.

- UTAH ADMIN. CODE r. § R311-500-7 (2008): (a) A certificate holder may apply for certificate renewal by successfully completing the following prior to the expiration date of the current certificate:
(1) Submitting a completed renewal application on a form approved by the Executive Secretary within the dates specified by the Executive Secretary;

  (2) Paying any applicable fees; and

  (3) Passing a certification renewal examination.

  (A) If the Executive Secretary determines that the applicant meets the eligibility requirements of R311-500-5 and will comply with the performance standards of R311-500-8, the Executive Secretary shall reissue the certificate to the applicant.

  (B) If the Executive Secretary determines that the applicant does not meet the eligibility requirements described in R311-500-5 or will not comply or has not complied with the performance standards of R311-500-8, the Executive Secretary may issue a notice to deny certification in a manner consistent with R311-500- 9.

  (b) Renewal certificates shall be valid for two years and shall be subject to revocation under R311-500-9.

  (c) Any individual who is not a Certified Decontamination Specialist on the date the renewal certification examination is given because the applicant's certification was revoked or expired prior to completing a renewal application must successfully meet the

application and eligibility criteria for initial certification as specified in R311-500-4 and R311-500-5 prior to issuance of a certificate.

VERMONT

- NOT FOUND

VIRGINIA

- NOT FOUND

WASHINGTON

- WASH. ADMIN. CODE § 246-205-041 (2008): (1) A refresher training course is required every two years for workers and supervisors.

  (2) Department approved refresher worker and supervisor training courses shall provide at a minimum:

  (a) A thorough review of the subjects required under WAC 246-205-031;

  (b) An update of information on state-of-the-art procedures and equipment;

  (c) A review of regulatory changes and interpretation; and

  (d) Other subjects if required by the department to update information on new technology and procedures.

- WASH. ADMIN. CODE § 246-205-071 (2008): (1) Applicants seeking certification as a decontamination worker shall ensure the department receives the following within sixty days of completing the basic worker course:

  (a) A completed decontamination worker application;

  (b) A fee as prescribed in WAC 246-205-990;

  (c) Evidence of satisfying the requirements of WAC 296-62-30410;

  (d) Evidence of successful completion of a department sponsored or approved basic decontamination worker course; and

  (e) Evidence of passing the basic decontamination worker examination administered by the department with a score of seventy percent or higher.

(2) Applicants seeking certification as a decontamination supervisor shall ensure the department receives the following within sixty days of completing the basic supervisor course:

(a) A completed decontamination supervisor application;

(b) A fee as prescribed in WAC 246-205-990;

(c) Evidence of a valid Washington state decontamination worker certificate;

(d) Evidence of forty or more hours of on-site experience in hazardous material or illegal drug manufacturing or storage site decontamination projects;

(e) Evidence of satisfying the requirements of WAC 296-62-30415.

(f) Evidence of successful completion of a department sponsored or approved basic decontamination supervisor course; and

(g) Evidence of passing the basic decontamination supervisor examination administered by the department with a score of seventy percent or higher.

(3) Applicants for decontamination supervisor certification who can demonstrate that their work experience and training has resulted in experience and training equivalent to the requirements in WAC 246-205-031 and 246- 205-071 (1)(c) and (2)(c), (d), and (e) may be certified as a CDL supervisor when they apply prior to May 1, 2003.

(a) For purposes of this subsection, an application includes:

(i) A completed decontamination supervisor application form;

(ii) A fee as prescribed in WAC 246-205-990; and

(iii) Evidence of meeting the requirements of this subsection.

(b) All other decontamination supervisor certification requirements of this chapter apply.

(4) Worker and supervisor certificates are valid for two years from the date of issuance.

(5) Workers and supervisors shall make certificates available for inspection at all times during an illegal drug manufacturing or storage site decontamination project.

(6) The certificate may be denied, suspended, or revoked as described in WAC 246-205-121.

- WASH. ADMIN. CODE § 246-205-081 (2008): (1) Worker and supervisor certification is valid for two years from the date of issuance.

  (2) Certified workers and supervisors seeking certificate renewal shall submit to the department thirty or more days before expiration of the current certificate:

  (a) A completed application form for certificate renewal;

  (b) A fee prescribed in WAC 246-205-990; and

  (c) Evidence of successful completion of a department sponsored or approved refresher training course.

  (3) If a previously certified worker applies for certification following expiration of the previous certificate, but less than two years after expiration of the previous certificate, the worker shall:

  (a) Submit to the department a completed application form for certificate renewal;

  (b) Submit to the department a fee prescribed in WAC 246-205-990; and

  (c) Retake the entire basic worker course.

  (4) If a previously certified supervisor applies for certification following expiration of the previous certificate, but less than two years after expiration of the previous certificate, the supervisor shall:

  (a) Submit to the department a completed application form for certificate renewal;

  (b) Submit to the department a fee prescribed in WAS 246-205-990; and

  (c) Retake the entire basic supervisor course.

- WASH. ADMIN. CODE § 246-205-091 (2008): (1) A contractor may advertise, offer to undertake, or perform decontamination, demolition, or disposal work at an illegal drug manufacturing or storage site only after securing a certificate from the department.

(2) Applicants for department certification as an authorized contractor, shall submit to the department:

(a) Evidence of being licensed, bonded, and insured as a general contractor under the provisions of chapter 18.27 RCW;

(b) Evidence of department certification for each employee who will do work on an illegal drug manufacturing or storage site;

(c) Documentation that the contractor has at least one department certified supervisor and one department certified worker;

(d) A completed decontamination contractor application form; and

(e) A fee as prescribed in WAC 246-205-990.

WEST VIRGINIA

- W. VA. CODE R. § 64-92-3 (2008): 3.1. No person shall perform the work of a clandestine drug laboratory remediation technician or contractor without possessing a valid license issued under this rule.

  3.2. Individual persons shall be at least eighteen years of age to be licensed under this rule.

  3.3. A license expires one year from the last day of the month in which it is issued.

  3.4. The commissioner may refuse to issue a license and retain the license fee if the applicant fails to satisfy the requirements of this rule.

  3.5. The commissioner may refuse to issue a contractor's license if he or she finds that the applicant has knowingly falsified or attempted to falsify documents related to any project or license within the purview of the department.

  3.6. The commissioner shall provide a written notice of denial and an opportunity for reapplication to all applicants.

  3.7. Applicable licensure fees, set forth in Table 64-92A of this rule, shall be enclosed with each license application.

  3.8. The applicant, contractor, or an authorized agent or officer of the applicant or contractor shall sign the application.

REMEDIATION CONTRACTOR REQUIREMENTS

3.9. License applications shall include the following:

3.9.a. For an individual person, the applicant's date of birth;

3.9.b. For licensure as a contractor, the license number of a current certified technician employed by the contractor;

3.9.c. For licensure of an individual person as a clandestine drug laboratory remediation technician, a current certificate of training from a West Virginia licensed clandestine drug laboratory remediation training provider and proof of current OSHA 40 hour hazardous material training; and

3.9.d. Any other information relevant to clandestine drug laboratory remediation licensure requested by the commissioner.

WISCONSIN

- NOT FOUND

WYOMING

- NOT FOUND

FEASIBILITY-BASED STANDARDS

For the reader, the word "clean" usually denotes being free from dirt and pollution. It means being unsoiled and sanitary. However, as it relates to the issue of clandestine drug laboratories, the term has a very different meaning that varies not only among the diverse specialists and agencies that are vital to the removal, remediation and decontamination processes, but also to the public at large. One of the most significant problems with the remediation of a controlled substance laboratory is determining an acceptable level of "cleanliness" to assure the public that there are not any potential health risks. Currently, there are no national standards for remediating controlled substance laboratories, and a baseline definition of "clean" is not available.[34]

Research regarding the acute and long term effects of exposure to chemicals that are used in the manufacture of controlled substances, and the end products that result from the manufacture process is limited, and virtually unavailable. While efforts to establish health based remediation standards exist, informed, effective, and optimal health-based standards for cleanup and remediation will only be possible when more data is acquired about the short- and long-term health and environmental consequences of controlled substance production. As a result, states have implemented feasibility-based standards which reflect the level of "clean" that they currently believe, based on available research and science, will provide citizens some protections from the long-term adverse health consequences of exposure to clandestine laboratory environments. The two most commonly used feasibility-based decontamination standards for methamphetamine are 0.1 micrograms per 100 square centimeters (0.1 μg/100cm^2) and 0.5

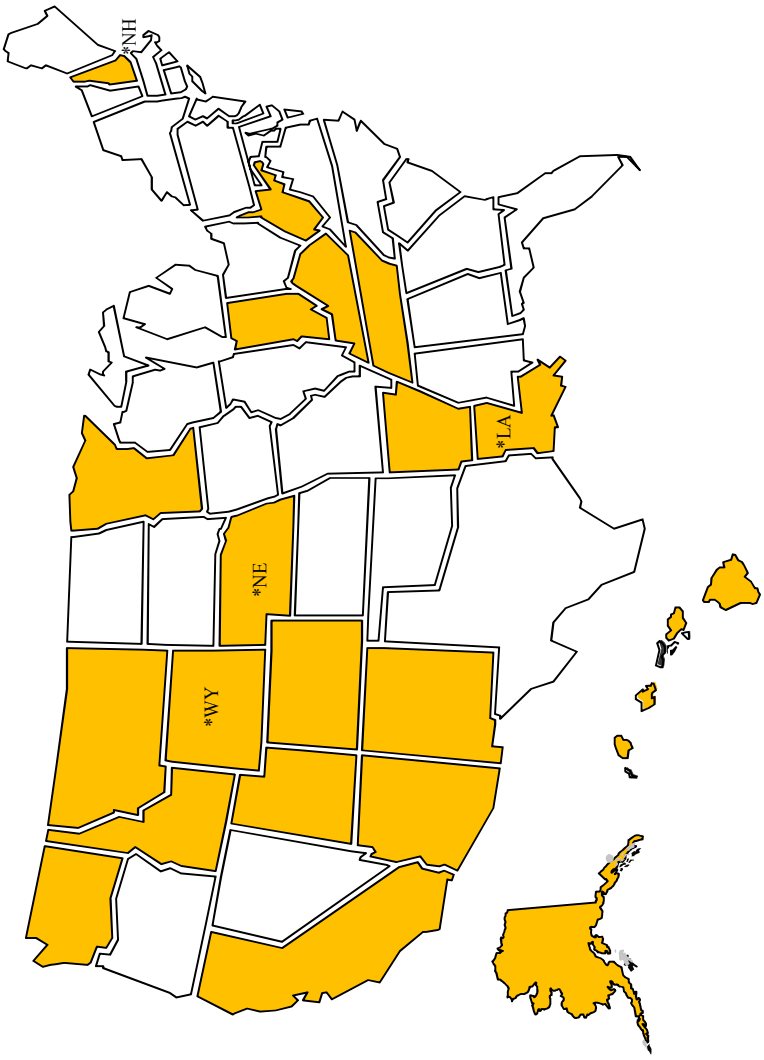
[34] *See* Methamphetamine Remediation Research Act of 2005: Hearing on H.R. 798 Before the H. Comm. on Science, 109th Cong. (2005) (statement of Robert Bell, Ph.D., President, Tennessee Technological University) available at http://science.house.gov/commdocs/hearings/full05/mar3/Bell.pdf. Last accessed: 9/30/2008.

micrograms per square foot ($0.5\mu g/ft^2$).[35] Numerous states also regulate levels of lead, mercury and volatile organic compounds typically found at these labs.

[35] *See* Methamphetamine Remediation Research Act of 2005: Hearing on H.R. 798 Before the H. Comm. on Science, 109th Cong. (2005) (statement of Sherry Green, Esq., Executive Director , National Alliance for Model State Drug Laws) available at http://science.house.gov/commdocs/hearings/full05/mar3/Green.pdf. Last accessed: 9/30/2008.

Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

STATES WITH FEASIBILITY-BASED REMEDIATION STANDARDS



* Wyoming, Nebraska, New Hampshire and Louisiana have not currently established feasibility-based remediation standards. Wyoming, Nebraska and New Hampshire have statutory language mandating the establishment of remediation standards, and upon information provided to NAMSDL, all three states are in various stages of the rulemaking process to establish standards. Louisiana has statutory language allowing the establishment of remediation standards, but it is unknown at this time whether Louisiana is working toward establishing remediation standards.

FEASIBILITY-BASED STANDARDS

ALABAMA

- NOT FOUND

ALASKA

- ALASKA STAT. § 46.03.530 (2008): (a) Property for which a notice was received under AS 46.03.500(b) is not fit for use if sampling and testing of the property under AS 46.03.520 shows the presence of substances for which the department has set a limit under (b) of this section.

  (b) The Department of Public Safety shall annually submit a list of substances to the Department of Environmental Conservation. The department shall adopt regulations that set the limit for each substance specified by the Department of Public Safety for purposes of determining whether the property for which a notice was received under AS 46.03.500 is fit for use. The department may also determine whether there are other substances associated with illegal drug manufacturing sites that may pose a substantial risk of harm to persons who occupy or use the site or to public health and may adopt regulations that set limits for those substances for the purposes of determining whether the property for which notice was received under AS 46.03.500 is fit for use.

- Alaska Department of Environmental Conservation, *Guidance and Standards for Cleanup of Illegal Drug-Manufacturing Sites* [Revision 1], 2-6 (Apr. 19, 2007): Based on the fact that no health-based standards exist for methamphetamine and many of the substances used in methamphetamine production, ADEC is adopting the State of Washington's "fit for use" cleanup standards for clandestine meth lab sites. **Requirement:** the required cleanup standards to be obtained in Alaska are specified in Table 2-2.

  The standards for methamphetamine and VOCs are applicable to any property where methamphetamine has been manufactured using the red phosphorus, birch, or amalgam method. The lead and mercury standards are applicable only to those properties where the amalgam method was used. The cleanup or "fit for use" standards specified in Table 2-2 apply only to illegal methamphetamine manufacturing sites (i.e., meth labs). ADEC has not developed standards for other types of drug laboratories, such as those for Lysergic Acid Diathylamide (LSD) and ecstasy.

Table 2-2
Required Cleanup Standards
Illegal Methamphetamine-Manufacturing Sites[A]

Substance	Cleanup Standard
Methamphetamine	0.1 μg/100 cm^2

FEASIBILITY-BASED STANDARDS

VOCs	1 ppm of total hydrocarbons and VOCs in air
Lead[B]	2 µg/100 cm^2
Mercury	50 ng/m^3 in air

Notes:

A. The cleanup standards apply only to illegal methamphetamine-manufacturing sites. ADEC has not developed standards for other types of drug laboratories, such as those for LSD and ecstasy.

B. This is equivalent to the 20-µg/ft^2 standard specified by the State of Washington. A conversion was made to simplify the sampling protocols and to standardize the size of sampling areas and templates.

ARIZONA

- ARIZ. ADMIN. CODE § R4-30-305.C.2 to C.3 (2008): C.2. The drug laboratory site remediation firm shall conduct sampling and testing for all of the compounds listed below. All remediated areas and materials shall meet the following post-remediation clearance levels:

Compound	**Remediation Standard**
Red Phosphorus	Removal of stained material or cleaned pursuant to these standards
Iodine Crystals	Removal of stained material or cleaned pursuant to these standards
Methamphetamine	0.1 µg Methamphetamine/100 cm^2
Ephedrine	0.1 µg Ephedrine/100 cm^2
Pseudoephedrine	0.1 µg Pseudoephedrine/100 cm^2
VOCs in Air	VOC air monitoring < 1 ppm
Corrosives	Surface pH of 6 to 8
LSD	0.1 µg LSD/100 cm^2
Ecstasy	0.1 µg Ecstasy/100 cm^2

3. The drug laboratory site remediation firm shall conduct sampling and testing for all of the metals listed below in all cases except where there is clear evidence that these metals were not used in the manufacturing of methamphetamine, LSD, or ecstasy at the drug laboratory:

Compound	**Remediation Standard**
Lead	4.3 µg Lead/100 cm^2
Mercury	3.0 µg Mercury/m^3 air

FEASIBILITY-BASED STANDARDS

ARKANSAS

- Arkansas Department of Environmental Quality, *Clandestine Laboratory Remediation Cleanup Standards*, 8 (2008): The standards for methamphetamine and volatile organic compounds (VOCs) are applicable to any property where methamphetamine has been manufactured using the phosphorus, birch, or amalgam method. The lead and mercury standards are applicable only to those properties where the amalgam method was used. The cleanup standards specified in Table 2 apply only to meth labs. Standards for other types of drug laboratories, such as those for LSD and ecstasy have not yet been developed. Property owners working on cleanup of non-meth drug manufacturing sites should contact ADEQ for advice regarding sampling and cleaning of those sites.

  Property owners should be aware that lead and mercury were commonly added to paints in past years, and in some areas, lead and mercury are present from natural (mineralogical) sources. Background concentrations of mercury and/or lead may result in false positives in excess of the cleanup standards. If a background source is known or suspected, background concentrations must be determined and the applicable cleanup standard would equal background plus the cleanup standard.

- Arkansas Department of Environmental Quality, *Clandestine Laboratory Remediation Cleanup Standards*, 51-52 (2008):

Risk Based Screening Levels for use in a Clandestine Methamphetamine Laboratory

Chemical Name	Concentration of Chemical on Surface (µg/100 cm^2)		Soil Screening Levels (mg/kg)		Ambient Air Screening Levels (mg/m^3)		Volatile (Y/N)	Source
a,a'-dimethyldiphenylethylamine	3.62E-01	NC	6.20E+00	NC		NC	N	7
a-benzyl-N-methylphenethylamine	5.00E-02	NC	N/A	NC		NC	N	16
a-benzylphenethylamine	3.62E-01	NC	6.20E+00	NC		NC	N	7
Acetaldehyde*	3.26E+00	C	1.09E+01	C	2.51E-03	C	Y	1
Acetic Acid	5.00E-02	NC	N/A	NC		NC	N	16
Acetic Anhydride	3.62E+03	NC	6.20E+04	NC		NC	N	16
Acetone	1.86E+03	NC	1.42E+04	NC	1.49E+00	NC	Y	1

FEASIBILITY-BASED STANDARDS

Allyl benzene	5.00E-02	NC	N/A	NC		NC	N	16
Aluminum	2.06E+03	NC	7.73E+04	NC	2.36E-03	NC	N	1
Aluminum Hydroxides	2.06E+03	NC	7.73E+04	NC	2.36E-03	NC	N	1
Ammonia*	4.49E+01	NC	1.49E+02	NC	4.73E-02	NC	N	1
Amphetamine	3.62E-01	NC	6.20E+00	NC		NC	N	2
Barium Sulfate	2.01E+02	NC	1.56E+04	NC	3.31E-01	NC	N	1
Benzene*	4.57E-01	C	6.56E-01	C	7.15E-04	C	Y	1
Benzyl Chloride*	1.48E-01	C	8.92E-01	C	1.14E-04	C	Y	1
Benzyl Cyanide	7.41E+00	NC	8.96E+01	NC		NC	N	1
Benzyl methyl ketone benzylimine	5.00E-02	NC	N/A	NC		NC	N	16
Butylamine	4.22E+03	NC	7.23E+04	NC		NC	N	3
Calcium chloride*	3.49E+04	NC	3.49E+05	NC	2.80E+01	NC	N	3
Chloroform	1.57E+01	C	2.45E-01	C	2.40E-04	C	Y	1
Chloropseudoephedrine	1.86E+03	NC	1.86E+04	NC		NC	N	16
Copper Chloride	2.15E+01	NC	2.80E+02	NC		NC	N	1
Cyanotrihydroborate	5.00E-02	NC	N/A	NC		NC	N	16
Di-(1-phenylisopropyl) amine	5.00E-02	NC	N/A	NC		NC	N	6
Di-(1-phenylisopropylmethylamine)	5.00E-02	NC	N/A	NC		NC	N	16
Dibenzyl ketone	5.00E-02	NC	N/A	NC		NC	N	16
Diethylmalonate	1.03E+05	NC	1.03E+06	NC		NC	N	9
Dimethylformamide	1.91E+02	NC	1.19E+03	NC	1.42E-02	NC	N	10
Ephedrine	1.86E+03	NC	1.86E+04	NC		NC	N	11
Ethanol*	5.90E+04	NC	5.90E+05	NC	4.72E+01	NC	Y	2
Ethyl Acetate	1.86E+03	NC	1.87E+04	NC	1.49E+00	NC	Y	1
Ethyl ether	4.13E+02	NC	1.84E+03	NC	3.31E-01	NC	Y	1
Formic acid	2.40E+03	NC	1.00E+05	NC	1.42E-03	NC	N	1
Freon	4.90E+02	NC	1.78E+03	NC	3.31E-01	NC	Y	1
Hydrochloric Acid*	1.23E+01	NC	2.98E+01	NC	9.45E-03	NC	N	1
Hydrogen Peroxide	3.10E+03	NC	3.10E+04	NC		NC	N	4
Hydroiodic Acid*	3.07E+02	NC	3.07E+03	NC	2.46E-01	NC	N	12
Iodine	2.06E+01	NC	2.07E+02	NC	4.72E-04	NC	N	13
Isopropanol*	4.13E+02	NC	4.13E+03	NC	3.31E-01	NC	Y	2
Lead acetate*	9.69E-02	C	4.00E+02	C	6.90E-05	C	N	2
Lead*	3.21E+00	C	4.00E+02	C	6.90E-05	C	N	2
Lithium	4.45E+01	NC	4.13E+02	NC		NC	N	8
Lithium Aluminum Hydroxide	4.48E+01	NC	4.13E+02	NC		NC	N	8

Magnesium	1.07E+04	NC	2.61E+04	NC		NC	N	16
Magnesium Sulfate	1.07E+04	NC	2.61E+04	NC		NC	N	16
Manganese Oxide	2.58E+02	NC	3.47E+03	NC	2.32E-05	NC	N	1
Mercuric Chloride	6.19E-01	NC	2.35E+01	NC		NC	N	1
Mercury	6.67E-01	NC	2.35E+01	NC	1.42E-04	NC	N	1
Methamphetamine	5.00E-02	NC	6.20E+00	NC		NC	N	1
Methanol	6.03E+02	NC	3.06E+04	NC	8.28E-01	NC	Y	1
Methyl ethyl ketone	1.24E+03	NC	3.21E+04	NC	2.36E+00	NC	Y	1
Methylamine*	8.26E+04	NC	8.26E+05	NC	6.62E+01	NC	Y	5
Methylene chloride*	3.35E+00	C	8.90E+00	C	1.17E-02	C	Y	1
N,a,a'-trimethyldiphenethylamine	5.00E-02	NC	N/A	NC		NC	N	16
N,N-dimethylamphetamine	3.62E-01	NC	6.20E+00	NC		NC	N	2
Naphthalene	2.12E+01	NC	1.25E+02	NC	1.42E-03	NC	Y	1
N-formylamphetamine	3.62E-01	NC	6.20E+00	NC		NC	N	2
N-formylmethamphetamine	3.62E-01	NC	6.20E+00	NC		NC	N	2
n-Hexane	2.27E+04	NC	1.15E+02	NC	3.31E-01	NC	Y	1
Nitroethane*	1.83E+02	NC	1.83E+03	NC	1.47E-01	NC	Y	14
N-methyldiphenylethylamine	3.62E-01	NC	6.20E+00	NC		NC	N	6
Palladium	1.15E+02	NC	1.96E+03	NC		NC	N	4
Palladium Chloride	1.15E+02	NC	1.96E+03	NC		NC	N	4
Perchloric Acid	1.65E+00	NC	3.67E+00	NC		NC	N	1
Phenyl-2-propanone (P-2-P)	5.00E-02	NC	N/A	NC		NC	N	16
Phenylacetic Acid	6.03E+05	NC	1.03E+07	NC		NC	N	4
Phenylacetylchloride	5.00E-02	NC	N/A	NC		NC	N	16
Phosphine	6.45E-01	NC	1.83E+01	NC	1.42E-04	NC	N	1
Phosphoric acid*	6.15E+00	NC	1.49E+01	NC	4.73E-03	NC	N	1
Phosphorouspentachloride	4.30E-02	NC	1.04E-01	NC		NC	N	1
Potassium cyanide	7.84E+01	NC	3.06E+03	NC		NC	N	1
Pseudoephedrine	1.86E+03	NC	1.86E+04	NC		NC	N	16
Pyridine	1.21E+00	NC	6.11E+01	NC	1.66E-03	NC	N	1
Red Phosphorous*	6.19E+03	NC	6.20E+04	NC	4.97E+00	NC	N	5
Sodium	4.10E+04	NC	7.02E+05	NC		NC	N	3
Sodium acetate	4.10E+04	NC	7.02E+05	NC		NC	N	3
Sodium Carbonate	4.10E+04	NC	7.02E+05	NC		NC	N	3
Sodium cyanide	6.27E+01	NC	2.44E+03	NC		NC	N	1
Sodium Ethoxide	4.10E+04	NC	7.02E+05	NC		NC	N	3

FEASIBILITY-BASED STANDARDS

Sodium Hydroxide*	4.72E+01	NC	4.72E+02	NC	3.78E-02	NC	N	2
Sulfuric Acid*	5.90E+00	NC	5.90E+01	NC	4.73E-04	NC	N	2
Thionyl Chloride	5.00E-02	NC	N/A	NC		NC	N	16
Thorium Oxide*	3.45E-01	NC	7.95E-02	NC	4.73E-04	NC	N	17
Toluene	1.65E+02	NC	5.21E+02	NC	2.36E+00	NC	Y	1
Tri-(-phenylisopropyl) amine	5.00E-02	NC	N/A	NC		NC	N	16
White Phosphorus	4.30E-02	NC	1.56E+00	NC	4.73E-05	NC	N	1

*Derived from Inhalation Toxicity Benchmark

References
1: Region 6 Human Health Medium Specific Screening Levels
2:California office of Health Hazard Assessment
3: International Programme on Chemical Safety
4: United States Environmental Protection Agency
5: National Research Council
6: National Institute of Drug Research
7: Handbook of Forensic Drug Analysis
8: Virginia Department of Health Bureau of Toxic Substances
9: European Food Safety Journal
10: Risk Assessment Information System
11: National Toxicology Programs
12: United Kingdom Department for Environment, Food and Rural Affairs
13: American Toxic Substances and Disease Registry
14: Committee on Updating of Occupational Exposure Limits, a committee of the Health Council of the Netherlands
15: State of Arkansas Guidelines

CALIFORNIA

- CAL. HEALTH & SAFETY § 25400.16 (West 2006): (a) Except as provided in subdivision (c), property contaminated by methamphetamine laboratory activity is safe for human

occupancy for purposes of this chapter only if the level of methamphetamine on any indoor surface is less than, or equal to, 0.1 micrograms per 100 square centimeters.

(b) Except as provided in subdivision (c), if property is contaminated by methamphetamine laboratory activity that included the use of lead or mercury compounds, in addition to the requirements of subdivision (a), property is safe for human occupancy for purposes of this chapter only if both of the following standards are met with regard to that property:

(1) The total level of lead is less than, or equal to, 20 micrograms per square foot.

(2) The level of mercury is less than, or equal to, 50 nanograms per cubic meter in air.

(c) Subdivisions (a) and (b) shall become inoperative on the effective date that the department, in consultation with the office, adopts a health-based target remediation standard for methamphetamine to determine when a property contaminated by methamphetamine laboratory activity only is safe for human occupancy, in which case any reference in this chapter to a human-occupancy standard specified in this section shall mean only the health-based target remediation standard for methamphetamine adopted by the department.

(d) The department shall conduct two public workshops, one in northern California and one in southern California, for the purpose of discussing with affected stakeholders the actions needed to further implement the goals of this chapter. The department may include, as topics for discussion, possible funding sources for local governments for the purposes of implementing this chapter, whether this chapter should be revised to address the contamination of properties by the illegal manufacturing of other controlled substances, and the results of the Illegal Drug Lab Risk Reduction Project conducted by the California Environmental Protection Agency pursuant to its adopted environmental justice action plan.

COLORADO

- 6 COLO. CODE REGS. 1014-3 §7.0 to 7.4 (2006): 7.0 Cleanup Levels. The following cleanup levels shall be used to determine if a property has been adequately decontaminated. They may also be used during the preliminary assessment to demonstrate that a property, or portion of a property, is not contaminated. All properties must meet the cleanup level for methamphetamine. Additional cleanup levels that may be applied to a property shall be based on information gained during the preliminary assessment.

FEASIBILITY-BASED STANDARDS

7.1. Surface wipe samples and vacuum samples for methamphetamine shall not exceed a concentration of 0.5 μg/100 cm^2.

7.2. If there is evidence of iodine contamination on materials or surfaces that will not be removed, surface wipe samples for iodine shall not exceed a concentration of 22 μg/100 cm^2.

7.3. If the preliminary assessment indicates the phenyl-2-propanone (P2P) method of methamphetamine manufacturing was used, surface wipe samples for lead shall not exceed a concentration of 40 μg/100 ft^2, and vapor samples for mercury shall not exceed a concentration of 1.0 μg/m^3.

7.4. The investigation and cleanup of outdoor contamination, including soil, surface water and groundwater, shall be conducted in accordance with the Colorado Hazardous Waste Regulations, the Colorado Solid Waste Regulations, and Water Quality Control Commission Regulations 31 and 41.

CONNECTICUT

- NOT FOUND

DELAWARE

- NOT FOUND

FLORIDA

- NOT FOUND

GEORGIA

- NOT FOUND

HAWAII

- Hawaii Department of Health, Hazard Evaluation & Emergency Response, *Technical Guidance Document for the Implementation of Chapter 452 of Title 11, Hawaii Administrative Rules, entitled "Requirements for Decontamination and Cleanup of Methamphetamine Manufacturing Sites"* [Draft Edition], 6-19 to 6-20 (Sept. 2007): The HEER Office strongly recommends that the property owner contract a qualified environmental or health professional to conduct sampling and testing. The services of a qualified third party professional will help ensure that sampling and testing activities are objective. See Section 6.5.2.3 for recommendations regarding the hiring of a sampling contractor.

FEASIBILITY-BASED STANDARDS

The analytical results obtained via sampling and laboratory analyses will be used to determine the presence and concentration of methamphetamine, VOCs, and lead and mercury (if necessary – P2P method only) remaining on building surfaces or in air after decontamination activities. The analytical results must show that residual contaminant levels (if any) are below the remedial action levels specified in Table 6-3.

TABLE 6-3 REMEDIAL ACTION LEVELS FOR ILLEGAL METHAMPHETAMINE-MANUFACTURING SITES

Substance	**Cleanup Standard**
Methamphetamine	0.1 μg/100 cm^2
VOCs	1 ppm of total hydrocarbons and VOCs in air
Lead	2 μg/100 cm^2
Mercury	50 ng/m^3 in air
Notes: The cleanup standards apply only to illegal methamphetamine-manufacturing sites. HDOH has not developed standards for other types of drug laboratories, such as those for LSD and ecstasy. Lead - This is equivalent to the 20-μg/ft^2 standard specified by the State of Washington. A conversion was made to simplify the sampling protocols and to standardize the size of the sampling areas and templates.	

IDAHO

- IDAHO ADMIN. CODE § 16.02.24.500 (2008): 01. Cleanup Standard for Methamphetamine. A level of methamphetamine that does not exceed a concentration of point one (1) micrograms per one hundred (100) square centimeters (0.1 μg/100 cm^2) as demonstrated by clearance sampling conducted by a qualified industrial hygienist.

  02. Other Cleanup Standards. Standards may be established for other controlled substances found in clandestine drug laboratories on a case by case basis, based on an inventory of chemicals found, and after consultation with the department, the property owner, law enforcement and a qualified industrial hygienist.

ILLINOIS

- NOT FOUND

INDIANA

FEASIBILITY-BASED STANDARDS

- 318 IND. ADMIN. CODE §1-5-2 (2007): Sec. 2. (a) Before issuing a certificate of decontamination, the qualified inspector shall inspect the contaminated property for the chemicals listed in Table 1 that are determined to be present during the review of law enforcement reports and the assessment required by section 1(1) through 1(3) of this rule.

  (b) The qualified inspector shall use the sampling procedures in this rule.

  (c) Analysis for the contaminants listed in Table 1 must use:

  (1) Method 8270C; or

  (2) an equivalent method or practice.

  (d) The qualified inspector shall determine if the levels of chemicals listed in Table 1 that were identified during the initial assessment performed under section 1(3) of this rule are equal to or lower than the decontamination levels in Table 1.

Table1.

Chemical	Chemical Abstract Service Registry Number	Final Decontamination Level
Methamphetamine	7632-10-2 or 537-46-2	0.5 µg/100 cm^2
Amphetamine	300-62-9	0.5 µg/100 cm^2
Ephedrine	299-42-3	0.5 µg/100 cm^2
Pseudoephedrine	90-82-4	0.5 µg/100 cm^2
Methcathenone	112117-24-5	0.5 µg/100 cm^2
Lysergic acid diethylamide (LSD)	50-37-3	0.5 µg/100 cm^2
3,4-methylenedioxy-methamphetamine (MDMA) (Ecstasy)	(No CAS number)	0.5 µg/100 cm^2
Phencyclidine (PCP)	60124-79-0	0.5 µg/100 cm^2
Gamma hydroxybutyrate (GHB)	591-81-1	0.5 µg/100 cm^2

  An alternate final decontamination level may be used for a specific contaminated property if that alternate level is based on the levels of chemicals found during the initial assessment required by section 1 of this rule and the planned reuse of the property is at

least as protective of human health as the corresponding final decontamination level and is accepted by the commissioner.

(e) All sample analysis must be conducted by an independent laboratory.

IOWA

- NOT FOUND

KANSAS

- NOT FOUND

KENTUCKY

- KY. REV. STAT. ANN. § 224.01-410(3)(b) (West 2007) (as amended by HB 765): (3)(b) Absent administrative regulations described in this subsection, the decontamination standard for methamphetamine inside inhabitable property is less than or equal to one-tenth of one (0.1) microgram of methamphetamine per one hundred (100) square centimeters of surface material.

LOUISIANA

- LA. REV. STAT. ANN. § 9:3198.1(D) (2008) (as amended by 2008 S.B. 801): D. The department may promulgate rules and regulations in order to adopt standards for remediating properties contaminated by clandestine methamphetamine drug labs.

MAINE

- NOT FOUND

MARYLAND

- NOT FOUND

MASSACHUSETTS

- NOT FOUND

MICHIGAN

- NOT FOUND

MINNESOTA

- Minnesota Department of Health and Minnesota Pollution Control Agency, *Clandestine Drug Lab General Cleanup Guidance*, 13 (Apr. 3, 2007): Indoor chemical-specific testing is listed in Table 1 below and described further in the following text. Lead and mercury testing should be limited to illicit drug laboratories where there is clear evidence

or high suspicion of use of these metals. All areas tested should be photographed to document the location of the sampled area.

Table 1: Sampling Levels and Their Meaning in This Guidance

Chemical	Interpretation and/or Action Taken
Methamphetamine	a) 1 µg/ft2 or greater: Full remediation of occupancy structures must be completed according to Guidance. b) 1 to <10 µg/ft2: Modified cleaning or disposal of some household contents or some non-occupancy structures may be allowed and will be determined by the local authority c) >10 µg/ft2: Full remediation of all structures and contents required. See *Appendix C4* for further explanation of these levels and actions. See NOTE below regarding Meth screening levels.
Corrosives	Clean to: pH 6-8
Volatile Organic Compounds (solvents)	Clean to: <1 ppm total VOCs in air (Common error for Photoionization Detectors (PIDS) can be as much as +/- 5ppm)
Phosphorus / Iodine	Discard stained/affected material
Mercury / Lead	Notify MDH or MPCA before proceeding with remediation or assessment: a. Mercury: Clean to < 0.3 µg/m3 (0.036 ppb) in air. [IRIS Reference Concentration for Chronic Inhalation Exposure RfC] b. Lead: Clean to < 40 µg/ft2 wipe sample. [EPA TSCA Section 403]

MISSISSIPPI

- NOT FOUND

MISSOURI

FEASIBILITY-BASED STANDARDS

- NOT FOUND

MONTANA

- MONT. CODE ANN. § 75-10-1303 (West 2007): (1) The decontamination standard for methamphetamine inside inhabitable property is less than or equal to 0.1 micrograms of methamphetamine per 100 square centimeters of surface material unless a different standard is adopted by the department by rule to protect human health. The department may adopt standards by rule for precursors to methamphetamine that are consistent with the standard for methamphetamine.

  (2) (a) The department may by rule establish the number and locations of surface material samples to be collected based on the circumstances of the contamination and acceptable testing methods.

  (b) In the absence of a rule described in subsection (2)(a), at least three samples must be collected from the surface material most likely to be contaminated at each property.

- MONT. ADMIN. R. 17.74.505 (West 2007): (1) the CML decontamination standards are as follows: (a) surface wipe samples and vacuum samples for methamphetamine may not exceed 0.1 micrograms (10^{-6} gram) per 100 square centimeters;

  (b) volatile organic compounds (VOCs) may not exceed 1.0 part per million VOCs in air; and

  (c) in the event of a phenyl-2-propanone (P2P) method of methamphetamine manufacturing was used, surface wipe samples for lead may not exceed 20.0 micrograms per square foot, and vapor samples for mercury may not exceed 50.0 nanograms (10^{-9} gram) per cubic meter in air.

NEBRASKA

- NEB REV. STAT. § 71-2434(1) (2007): The local public health department serving the municipality or county where a clandestine drug lab has been discovered shall monitor the rehabilitation of any contaminated property at such location in accordance with standards and procedures established or approved by the department. The department shall adopt and promulgate rules and regulations to establish such standards and procedures no later than July 15, 2007. Such procedures shall include deadlines for completion of the various stages of rehabilitation and proper disposal of the contaminated property.

NEVADA

FEASIBILITY-BASED STANDARDS

- NOT FOUND

NEW HAMPSHIRE

- N.H. REV. STAT. ANN. § 477:4-g.II (2006): II. The department of environmental services or any licensed environmental or hazardous substances removal specialist shall be responsible for determining that any property on which methamphetamine production has occurred, meets remediation cleanup standards established pursuant to rules adopted by the department under RSA 541-A. Prior to the establishment of rules, the determination shall be based on the best scientific methods available. The determination that the property meets remediation cleanup standards shall be public information available upon request from the department.

NEW JERSEY

- NOT FOUND

NEW MEXICO

- N.M. CODE R. §20.4.5.17 (2008): At a minimum, the remediation firm shall conduct sampling and testing for all of the constituents listed below unless evidence indicates that such constituents were not used in the operation of the clandestine drug laboratory. All interior areas of the residually contaminated portion of a property that will be occupied by people for any length of time for any purpose and all furnishings and materials intended for reuse shall meet the following post-remediation clearance levels.

Constituent	Clearance Level
Unlawfully manufactured controlled substance or its precursor drugs	Surface area wipe <1.0 $\mu g/ft^2$
Volatile organic compounds (total)	Indoor air ; 1 part per million
Lead (total)	Surface area wipe ; 40 $\mu g/ft^2$
Mercury (vapor)	Indoor air < 0.3 $\mu g/m^3$
Corrosives	Surface pH of 6.0 to 8.0

NEW YORK

- NOT FOUND

NORTH CAROLINA

- NOT FOUND

NORTH DAKOTA

- NOT FOUND

FEASIBILITY-BASED STANDARDS

OHIO
- NOT FOUND

OKLAHOMA
- NOT FOUND

OREGON
- NOT FOUND

PENNSYLVANIA
- NOT FOUND

RHODE ISLAND
- NOT FOUND

SOUTH CAROLINA
- NOT FOUND

SOUTH DAKOTA
- NOT FOUND

TENNESSEE
- TENN. COMP. R. & REGS. 12200-1-19-.01 (2007): (1) Methamphetamine shall not exceed .1 microgram/100cm2 on any hard surfaces.

  (2) Volatile Organic Compounds shall not exceed 1ppm in air as measured under normal inhabitable ventilation conditions.

  (3) If it is determined that lead or mercury were used in the lab process, the standard for cleanup of lead on any surface shall not exceed 40ug/ft2, and mercury shall not exceed 50 nanograms/m3 for indoor air. Lead acetate and mercuric chloride are used in the Amalgam process that uses phenylpropanone (P2P). This process is not commonly used, but may occasionally be encountered.

TEXAS
- NOT FOUND

UTAH

FEASIBILITY-BASED STANDARDS

- Methamphetamine Decontamination Act, Ch. 38, 2008 Utah Acts: (1) The department shall make rules adopting scientifically-based standards for methamphetamine decontamination.

  (2) A local health department, as defined in Title 26A, Local Health Authorities, shall follow rules made by the department under Subsection (1) in administering Title 19, Chapter 6, Part 9, Illegal Drug Operations Site Reporting and Decontamination Act.

- UTAH ADMIN. CODE 392-600-6 (2008): (1) The decontamination specialist or owner of record shall take and test confirmation samples after decontamination to verify that concentrations are below the decontamination standards prior to the submittal of a final report. Samples are not required if a contaminated surface has been removed and replaced, unless there is evidence that the area has been re-contaminated. All decontaminated areas and materials, areas not highly suggestive of contamination, and surfaces that have not been removed shall be sampled for compliance with the standards in Table 1.

  (2) If the decontamination standards are not achieved, the decontamination specialist or owner of record shall perform additional decontamination and re-sample to confirm the surface or area meets the decontamination standards specified in Table 1.

TABLE 1

COMPOUND	DECONTAMINATION STANDARD
Red Phosphorus	Removal of stained material or cleaned as specified in this rule such that there is no remaining visible residue.
Iodine Crystals	Removal of stained material or cleaned as specified in this rule such that there is no remaining visible residue.
Methamphetamine	Less than or equal to 0.1 microgram Methamphetamine per 100 square centimeters
Ephedrine	Less than or equal to 0.1 microgram Ephedrine per 100 square centimeters
Pseudoephedrine	Less than or equal to 0.1 microgram Pseudoephedrine per 100 square centimeters
VOCs in Air	Less than or equal to 1 ppm
Corrosives	Surface pH between 6 and 8
Ecstasy	Less than or equal to 0.1 microgram Ecstasy per 100 square centimeters

(3) The decontamination specialist or owner of record shall also conduct sampling and testing for all of the metals listed in Table 2 unless there is clear evidence that these

metals were not used in the illegal drug operations. If Table 2 contaminants are present, the decontamination specialist or owner of record shall decontaminate the affected areas and sample until they meet the decontamination standards in Table 2.

VERMONT

- NOT FOUND

VIRGINIA

- NOT FOUND

WASHINGTON

- WASH. ADMIN. CODE § 246-205-541 (2008): The decontamination standards include:

  (1) Methamphetamine of less than or equal to 0.1 micro grams per 100 square centimeters;

  (2) Total lead of less than or equal to 20 micro grams per square foot;

  (3) Mercury of less than or equal to 50 nano grams per cubic meter in air; and

  (4) Volatile organic compounds (VOCs) of 1 part per million total hydrocarbons and VOCs in air.

WEST VIRGINIA

- W. VA. CODE R. § 64-92-7 (2008): 7.1. The minimum post remediation, reoccupancy decontamination level for residential property that has been used as a clandestine drug laboratory is: 0.1 µg of methamphetamine residue per 100 square centimeters (0.1 µg /100 cm^2) of area sampled by a licensed clandestine drug laboratory remediation technician.

  7.2. The commissioner may request sampling for additional chemicals if the manifest of chemicals removed from the property indicates a need for further sampling.

  7.3. All analytical laboratories used to analyze samples taken to comply with this rule shall be AHA or EPA certified.

WISCONSIN

- NOT FOUND

WYOMING

FEASIBILITY-BASED STANDARDS

- WYO. STAT. ANN. § 35-9-153(h) (2008): (h) The commission shall, by rule and regulation, establish standards for protection of the safety of responding personnel during clandestine laboratory incident responses, standards for determining a site uninhabitable under W.S. 35-9-156(d), standards for determining the extent of contamination and standards for remediation required to render former clandestine laboratory operation sites safe for re-entry, habitation or use with respect to the following:

  (i) Decontamination and sampling standards and best management practices for the inspection and decontamination of property and the disposal of contaminated debris;

  (ii) Appropriate methods for the testing of buildings and interior surfaces, furnishings, soil and septic tanks for contamination;

  (iii) When testing for contamination may be required; and

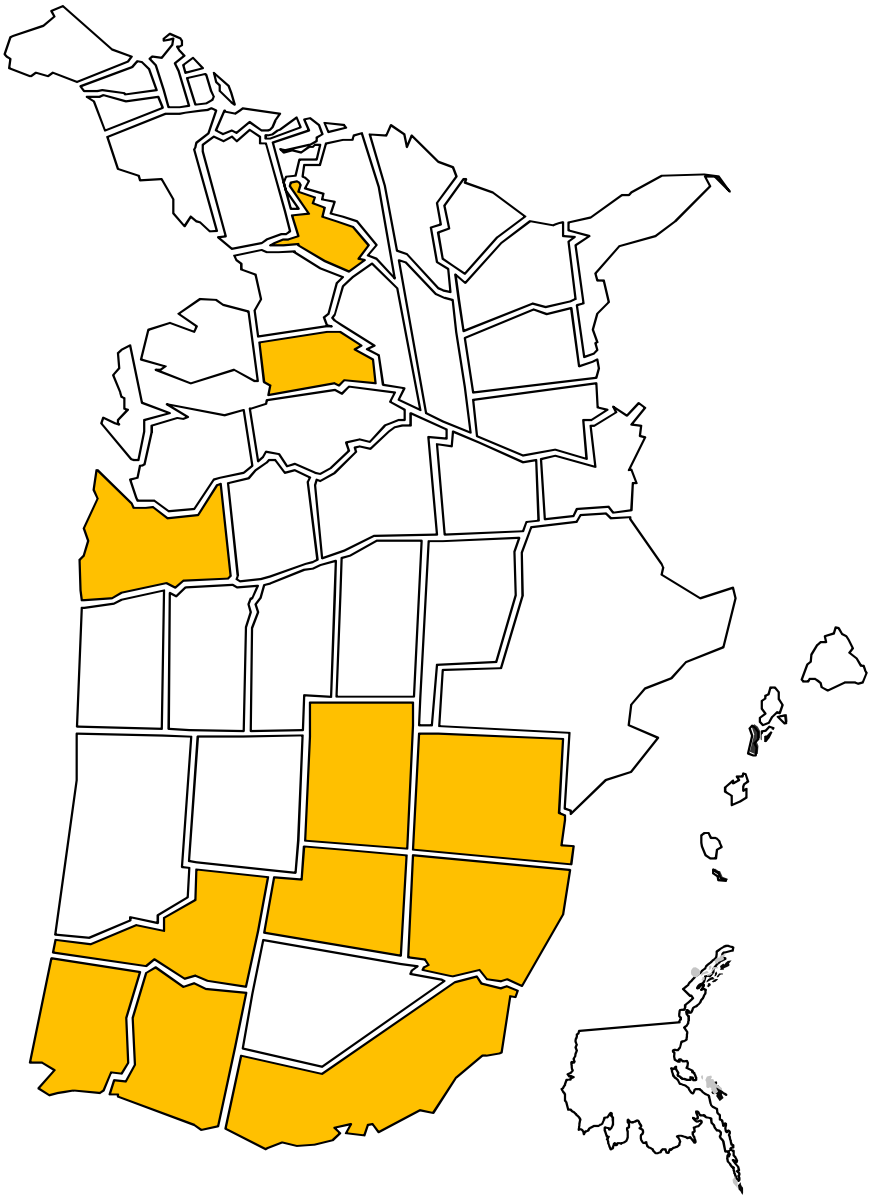
  (iv) When a site may be declared remediated.

DEMOLITION OF PROPERTY IN LIEU OF REMEDIATION

Recognizing the fact that remediation of clandestine lab sites is costly, some states allow a property to be demolished in lieu of remediation. Usually, the demolition and removal of materials must be conducted in compliance with applicable state, local and federal laws and regulations. It is important to note that the information found in this section is not information pertaining to the necessary removal of contaminated items in order to meet the applicable remediation standard, but the actual ability to demolish a property rather than remediating that property.

Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

STATES WITH STATUES, REGULATIONS OR GUIDELINES THAT ALLOW CONTAMINATED PROPERTY TO BE DEMOLISHED IN LIEU OF REMEDIATION



DEMOLITION OF PROPERTY IN LIEU OF REMEDIATION

ALABAMA

- NOT FOUND

ALASKA

- NOT FOUND

ARIZONA

- ARIZ. REV. STAT. ANN. § 12-1000(F)(5) (2008): F. The following notice requirements apply until the remediation is complete as provided in subsection D of this section.

  5. If a mobile home or recreational vehicle in a space rental park contains a clandestine drug laboratory, the landlord, on receipt of a notice pursuant to this section, shall notify the lienholder of record and the owner of record of the unit to remove it from the park within thirty days. If the unit is not removed within thirty days, the landlord may remove or demolish the unit and dispose of it as junk and shall notify the department of transportation of the demolition. A landlord that complies with this subsection is not liable for such action.

ARKANSAS

- NOT FOUND

CALIFORNIA

- CAL. HEALTH & SAFETY CODE § 25400.28(c)(5) & (6) (West 2008): (5) If the remediation of a mobilehome, manufactured home, or recreational vehicle specified in paragraph (1) is not completed by the registered owner of the mobilehome, manufactured home, or recreational vehicle in compliance with an order issued by a local health officer pursuant to this chapter, in addition to authority granted by Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of the Civil Code) and the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of the Civil Code), the owner of the mobilehome park or special occupancy park may remove, dismantle, demolish, or otherwise abate the nuisance.

  (6) An activity specified in paragraph (5) to remove and dispose of the mobilehome, manufactured home, or recreational vehicle shall only be taken by an authorized contractor. In addition to any other requirements of this chapter, the registered owner of the recreational vehicle or registered owner of the mobilehome or manufactured home, as applicable, is severally and collectively liable for the cost of any remediation ordered by the local health officer.

DEMOLITION OF PROPERTY IN LIEU OF REMEDIATION

COLORADO

- COLO. REV. STAT. ANN. § 25-18.5-103 (West 2008): (1)(a) Upon notification from a peace officer that chemicals, equipment, or supplies indicative of an illegal drug laboratory are located on a property, or when an illegal drug laboratory used to manufacture methamphetamine is otherwise discovered and the property owner has received notice, the owner of any contaminated property shall meet the cleanup standards for property established by the board in section 25-18.5-102; except that a property owner may, at his or her option and subject to paragraph (b) of this subsection (1), elect instead to demolish the contaminated property. If the owner elects to demolish the contaminated property, the governing body or, if none has been designated, the health department, building department, or law enforcement agency with jurisdiction over the area where the property is located may require the owner to fence off the property or otherwise make it inaccessible to persons for occupancy or intrusion.

  (b) An owner of any personal property within a structure or vehicle contaminated by illegal drug laboratory activity shall have ten days after the date of discovery of the laboratory or contamination to remove or clean his or her personal property according to board rules. If the personal property owner fails to remove the personal property within ten days, the owner of the structure or vehicle may dispose of the personal property during the cleanup process without liability to the owner of the personal property for such disposition.

  (2) Once a property owner has met the clean-up standards and documentation requirements established by the board, as evidenced by a copy of the results provided to the governing body, or has demolished the property, compliance with subsection (1) of this section shall establish immunity for the property owner from a suit for alleged health-based civil actions brought by any future owner, renter, or other person who occupies such property, or a neighbor of such property, in which the alleged cause of the injury or loss is the existence of the illegal drug laboratory used to manufacture methamphetamine; except that immunity from a civil suit is not established for the person convicted for the production of methamphetamine.

  (3) A person who removes personal property or debris from a drug laboratory shall secure the property and debris to prevent theft or exposing another person to any toxic or hazardous chemicals until the property and debris is appropriately disposed of or cleaned according to board rules.

- 6 COLO. CODE REGS. § 1014-3-1.0 (2008): 1.0 Purpose – Pursuant to section 25-18.5-102, C.R.S., the Board of Health is authorized to establish standards for the cleanup of illegal laboratories used to manufacture methamphetamine, which property owners are

required to meet pursuant to Section 25-18.5-103, C.R.S., except that a property owner may elect instead to demolish the contaminated property.

- 6 COLO. CODE REGS. § 1014-3-5.10 (2008): 5.10. Any demolition of all or part of a structure shall be conducted in accordance with all local State and Federal requirements.

CONNECTICUT

- NOT FOUND

DELAWARE

- NOT FOUND

FLORIDA

- NOT FOUND

GEORGIA

- NOT FOUND

HAWAII

- NOT FOUND

IDAHO

- IDAHO CODE ANN. § 6-2606 (2008): (1) Except as otherwise provided in subsection (2) of this section, and pursuant to rules adopted as provided in this chapter, upon notification to a residential property owner by a law enforcement agency that chemicals, equipment, supplies or immediate precursors indicative of a clandestine drug laboratory have been located on the owner's residential property, the residential property owner shall meet the cleanup standards established by the department. The residential property shall remain vacant from the time the residential property owner is notified, in accordance with rules adopted as provided in this chapter, of the clandestine drug laboratory until such time as the residential property owner has received a certificate issued by the department evidencing that the cleanup standards have been met.

  (2) A residential property owner may, at his or her option, elect to demolish the residential property instead of meeting the cleanup standards established by the department.

- IDAHO ADMIN. CODE r. § 16.02.24.200.02 (2008): The owner of a listed property must:

  02. Ensure That Cleanup Standards Are Met.

a. Ensure that the property is cleaned up to meet the cleanup standards in Section 500 of these rules and have the analytical results certified by a qualified industrial hygienist; or

b. Ensure that the property is demolished, in lieu of clean up, as provided for in Section 6-2606, Idaho Code. Demolition and removal of materials must be conducted in compliance with applicable local, state, and federal laws and regulations…

- IDAHO ADMIN. CODE r. § 16.02.24.600.06 (2008): 06. Demolition Documentation. If the property owner chooses to demolish the property, documentation must be provided to the department showing that the structure was completely and lawfully demolished and disposed of in compliance with local, state, and federal laws and regulations.

ILLINOIS

- NOT FOUND

INDIANA

- 318 IND. ADMIN. CODE 1-3-2(b) (2008): (b) The owner of the contaminated property may use any of the following to clean up the contaminated property:

  (1) Decontamination of the property or removal of all potentially contaminated material.

  (2) Demolition of a structure.

  (3) Disposal of a vehicle.

  (4) Destruction and disposal of a watercraft.

- 318 IND. ADMIN. CODE 1-6-1 (2008): A person who demolishes a contaminated property that is a structure shall comply with all requirements of this rule.

- 318 IND. ADMIN. CODE 1-6-2 (2008): The demolition contractor shall do all of the following:

  (1) Review the Indiana State Police Methamphetamine Laboratory Occurrence Report prepared by the law enforcement agency under IC 5-2-15 for that property.

  (2) Perform a visual inspection of the contaminated property to identify safety and health hazards at the property that can affect the health of persons at or near the property.

(3) Notify the local health department of the following:

(A) That demolition will be conducted at that location.

(B) The date that demolition will begin.

(4) Remove the septic tank or ensure the septic tank has been emptied. Notify the person who pumps out the septic system that the property was used for illegal manufacture of a controlled substance.

(5) Protect all persons at the contaminated property from hazards identified at that property, including respiratory protection if needed.

(6) Remove all soil that has been contaminated with chemicals used in the illegal manufacture of a controlled substance.

(7) Prevent salvaging of materials from the contaminated property or transfer of those materials to another person.

(8) Dispose of all materials resulting from activities under this rule in accordance with 329 IAC 10 no more than seventy-two (72) hours after demolition is completed.

- 318 IND. ADMIN. CODE 1-6-3 (2008): Not more than five (5) days after completing demolition, the demolition contractor shall notify the following in writing that demolition has been completed:

  (1) The local health department.

  (2) The Indiana State Department of Health, Office of Primary Care, 2 North Meridian Street, Section 3A, Indianapolis, IN 46204.

  (3) The Indiana Department of Environmental Management, Office of Land Quality, Remediation Services Branch, Room 1101, 100 North Senate Avenue, Indianapolis, Indiana 46204-2251.

IOWA

- NOT FOUND

KANSAS

- NOT FOUND

Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

DEMOLITION OF PROPERTY IN LIEU OF REMEDIATION

KENTUCKY
- NOT FOUND

LOUISIANA
- NOT FOUND

MAINE
- NOT FOUND

MARYLAND
- NOT FOUND

MASSACHUSETTS
- NOT FOUND

MICHIGAN
- NOT FOUND

MINNESOTA
- Minnesota Department of Health and Minnesota Pollution Control Agency, *Clandestine Drug Lab General Cleanup Guidance*, 27-28 (Apr. 3, 2007): All structures that are to be demolished in lieu of cleaning should be carefully inspected for meth lab materials and hazardous materials. Normal demolition and disposal rules apply. In all cases a property owner is responsible for assessment and proper removal and disposal of asbestos, lead, and mercury containing materials. For more details, see the "Pre-Demolition Environmental Checklist and Guide" on the MPCA website at: http://www.pca.state.mn.us/publications/w-sw4-20.pdf.

MISSISSIPPI
- NOT FOUND

MISSOURI
- NOT FOUND

MONTANA
- NOT FOUND

NEBRASKA
- NOT FOUND

DEMOLITION OF PROPERTY IN LIEU OF REMEDIATION

NEVADA
- NOT FOUND

NEW HAMPSHIRE
- NOT FOUND

NEW JERSEY
- NOT FOUND

NEW MEXICO
- N.M. CODE R. § 20.4.5.16(C)(3) (Weil 2008): The evaluation and cleanup of residual contamination found at clandestine drug laboratories after chemicals and equipment have been removed shall meet the following standards.

  (C) Once chemicals and equipment removal is completed by the law enforcement agency or hazardous materials team, the owner shall have a remediation firm remove and dispose of, or clean, the portions of the property with residual contamination. Both the interior and exterior residually contaminated portions of the property shall be decontaminated in accordance with this section. Cleanup activities must be repeated until testing indicates that contamination levels are below the clearance levels in 20.4.5.17 NMAC.

  (3) For vehicles, including recreational vehicles, campers and trailers, the remediation firm shall follow the requirements listed in Paragraph (1) of Subsection C of 20.4.5.16 NMAC for interior decontamination. The cost of remediation may not make decontamination cost effective for many vehicles, in which case the entire vehicle shall be demolished.

NEW YORK
- NOT FOUND

NORTH CAROLINA
- NOT FOUND

NORTH DAKOTA
- NOT FOUND

OHIO
- NOT FOUND

DEMOLITION OF PROPERTY IN LIEU OF REMEDIATION

OKLAHOMA

- NOT FOUND

OREGON

- OR. REV. STAT. ANN. § 453.879 (2007): When the Director of Human Services or a designee thereof, the State Fire Marshal or designee thereof or any law enforcement agency makes a determination that property subject to ORS 105.555, 431.175 and 453.855 to 453.912 is not fit for use, the Director of Human Services or designee thereof shall notify the Director of the Department of Consumer and Business Services of the determination. The Director of the Department of Consumer and Business Services shall list the property as not fit for use until the Director of the Department of Consumer and Business Services is notified that the property has been certified by the Department of Human Services pursuant to ORS 453.885, or the initial determination is reversed on appeal, or the property is destroyed. Upon receipt of the certificate, the Director of the Department of Consumer and Business Services shall cause the property to be removed from the list described in this section.

- OR. REV. STAT. ANN. § 453.906 (2007): The Director of the Department of Consumer and Business Services shall adopt rules fixing uniform standards whereby local building code enforcement agencies may require that property determined under ORS 105.555, 431.175 and 453.855 to 453.912 to be not fit for use may be subject to action to condemn or demolish the property or to require the property be vacated or contents be removed from the property.

- OR. ADMIN. R. § 333-040-0065(3) (2008): (1) The owner of property determined to be unfit for use shall:

  (a) Prevent by reasonable means the entry, occupancy or any use whatsoever by anyone of the property in question until the property has been issued a Certificate of Fitness or until the determination that the property is unfit for use has been reversed in writing by the determining agency or by a court of law; except that qualified contractors and regulatory agencies and their authorized agents may enter such properties for purposes of evaluation, sampling, and/or decontamination; and owners or agents of the owner may enter such properties for the purposes of decontamination when approved by the Division as set forth in section (2) of this rule; and

  (b) Retain a contractor to supervise the decontamination efforts, including: performing a site assessment; supervising site sampling by an independent third party as required in OAR 333-040-0130(1); submitting a work plan for Division approval; and decontaminating the property or supervising the decontamination of the property. An

owner or an agent of the owner may perform the decontamination when the requirements of this subsection and the criteria of section (2) or (3) of this rule are met.

(2) The Division may approve the performance of the decontamination work by the owner or an agent of the owner in accordance with subsection (1)(b) of this rule if all of the following criteria are met:

(a) Methamphetamine was the only drug manufactured at the site; and

(b) The method of manufacturing was the ephedrine-red phosphorus or ephedrine-sodium/lithium metal method; and

(c) The manufacturing occurred after 1994; and

(d) No visual or apparent evidence of manufacturing-related contamination, filth and debris, or biohazards are present; and

(e) No manufacturing-related fire occurred.

(3) When a contractor is proposing a demolition as a method of decontamination as set forth in section (2) of this rule, the Division may waive subsections 2(a) through 2(e) if:

(a) Methamphetamine was the only drug manufactured; and

(b) The owner or agent of the owner is prohibited from entering the structure(s) to be demolished.

(4) The Division may disallow the owner or agent of the owner from performing the decontamination work when there is evidence of removal of contents or any other form of decontamination not approved by the Division.

(5) An owner must do one of the following before unfit for use property can be used: provide evidence that the unfit for use property designation has been reversed on appeal; provide evidence that the property has been assessed as set forth in OAR 333-040-070(1)(a), found not to be contaminated, and a Certificate of Fitness issued; or provide evidence that the property has been decontaminated and a Certificate of Fitness issued.

- OR. ADMIN. R. § 333-040-0090 (2008): Property found to be unfit for use may be demolished all or in part in order to remove the contamination. A contractor shall comply with all state and local requirements, including any permits, for protecting health and the environment in any Division-approved demolition, and shall remove or contain all

hazards resulting from the illegal drug manufacturing. A contractor shall submit a written work plan to the Division and receive written approval from the Division prior to the demolition. Where required, permits for demolition shall also be obtained from the Building Codes Division, city or county building authority before demolition begins.

- OR. ADMIN. R. § 918-010-0025-11 (2008): (1) Once property is designated as "unfit for use," procedures for requiring removal of contents or vacation of the premises may be started.

  (2) The standards in the 1988 Edition of The Uniform Code for the Abatement of Dangerous Buildings published by the International Conference of Building Officials are adopted under ORS 453.906 as the uniform standards whereby local building code enforcement agencies may act to condemn, demolish, and require the vacation of the property or removal of contents. The "Dangerous Building Section," Section 302 of the Uniform Code, may only be used when the conditions or defect results from, or is made more dangerous to, the life, health, property or safety of the public or its occupants because of the use of the property or its status as an illegal drug manufacturing site.

  (3) Nothing in this rule prohibits any local jurisdiction from adopting the procedures provided in The Uniform Code for the Abatement of Dangerous Buildings.

PENNSYLVANIA
- NOT FOUND

RHODE ISLAND
- NOT FOUND

SOUTH CAROLINA
- NOT FOUND

SOUTH DAKOTA
- NOT FOUND

TENNESSEE
- NOT FOUND

TEXAS
- NOT FOUND

UTAH

DEMOLITION OF PROPERTY IN LIEU OF REMEDIATION

- UTAH ADMIN. CODE r. R392-600-5 (2008): (11) If an illegal drug operation is encountered in a motor vehicle, the decontamination specialist or owner of record shall conduct a Preliminary Assessment in the manner described in this rule to determine if the vehicle is contaminated. If it is determined that the motor vehicle is contaminated and the vehicle cannot be cleaned in a manner consistent with this rule, the motor vehicle may no longer be occupied. The vehicle shall also be properly disposed.

VERMONT

- NOT FOUND

VIRGINIA

- NOT FOUND

WASHINGTON

- WASH. REV. CODE ANN. § 64.44.040 (West 2008): (1) Upon issuance of an order declaring property unfit and prohibiting its use, the city or county in which the contaminated property is located may take action to prohibit use, occupancy, or removal of such property; condemn, decontaminate, or demolish the property; or require that the property be vacated or the contents removed from the property. The city or county may use an authorized contractor if property is demolished, decontaminated, or removed under this section. The city, county, or contractor shall comply with all orders of the health officer during these processes. No city or county may condemn, decontaminate, or demolish property pursuant to this section until all procedures granting the right of notice and the opportunity to appeal in RCW 64.44.030 have been exhausted, but may prohibit use, occupancy, or removal of contaminated property pending appeal of the order.

  (2)(a) It is unlawful for any person to enter upon any property, or to remove any property, that has been found unfit for use by a local health officer pursuant to RCW 64.44.030.

  (b) This subsection does not apply to: (i) Health officials, law enforcement officials, or other government agents performing their official duties; (ii) authorized contractors or owners performing decontamination pursuant to authorization by the local health officer; and (iii) any person acting with permission of a local health officer, or of a superior court or hearing examiner following an appeal of a decision of the local health officer.

  (c) Any person who violates this subsection is guilty of a misdemeanor.

  (3) No provision of this section may be construed to limit the ability of the local health officer to permit occupants or owners of the property at issue to remove uncontaminated personal property from the premises.

DEMOLITION OF PROPERTY IN LIEU OF REMEDIATION

- WASH. REV. CODE ANN. § 64.44.050 (West 2008) (as amended by 2008 H.B. 2817): (1) An owner of contaminated property who desires to have the property decontaminated, demolished, or disposed of shall use the services of an authorized contractor unless otherwise authorized by the local health officer. The contractor and property owner shall prepare and submit a written work plan for decontamination, demolition, or disposal to the local health officer. The local health officer may charge a reasonable fee for review of the work plan. If the work plan is approved and the decontamination, demolition, or disposal is completed and the property is retested according to the plan and properly documented, then the health officer shall allow reuse of the property. A release for reuse document shall be recorded in the real property records indicating the property has been decontaminated, demolished, or disposed of in accordance with rules of the state department of health. The property owner is responsible for: (a) The costs of any property testing which may be required to demonstrate the presence or absence of hazardous chemicals; and (b) the costs of the property's decontamination, demolition, and disposal expenses, as well as costs incurred by the local health officer resulting from the enforcement of this chapter.

  (2)(a) In a case where the contaminated property is a motor vehicle as defined in RCW 46.04.320, a vehicle as defined in RCW 46.04.670, or a vessel as defined in RCW 88.02.010, and the local health officer has issued an order declaring the property unfit and prohibiting its use, the city or county in which the property is located shall take action to prohibit use, occupancy, or removal, and shall require demolition, disposal, or decontamination of the property. The city, county, or local law enforcement agency may impound the vehicle or vessel to enforce this chapter.

  (b) The property owner shall have the property demolished, disposed of, or decontaminated by an authorized contractor, or under a written work plan approved by the local health officer, within thirty days of receiving the order declaring the property unfit and prohibited from use. After all procedures granting the right of notice and the opportunity to appeal in RCW 64.44.030 have been exhausted, if the property owner has not demolished, disposed of, or decontaminated the property using an authorized contractor, or under a written work plan approved by the local health officer within thirty days, then the local health officer or the local law enforcement agency may demolish, dispose of, or decontaminate the property. The property owner is responsible for the costs of the property's demolition, disposal, or decontamination, as well as all costs incurred by the local health officer or the local law enforcement agency resulting from the enforcement of this chapter, except as otherwise provided under this subsection.

  (c) The legal owner of a motor vehicle as defined in RCW 46.04.320, a vehicle as defined in RCW 46.04.670, or a vessel as defined in RCW 88.02.010 whose sole basis of

ownership is a bona fide security interest is responsible for costs under this subsection if the legal owner had knowledge of or consented to any act or omission that caused contamination of the vehicle or vessel.

(d) If the vehicle or vessel has been stolen and the property owner neither had knowledge of nor consented to any act or omission that contributed to the theft and subsequent contamination of the vehicle or vessel, the owner is not responsible for costs under this subsection. However, if the registered owner is insured, the registered owner shall, within fifteen calendar days of receiving an order declaring the property unfit and prohibiting its use, submit a claim to his or her insurer for reimbursement of costs of the property's demolition, disposal, or decontamination, as well as all costs incurred by the local health officer or the local law enforcement agency resulting from the enforcement of this chapter, and shall provide proof of claim to the local health officer or the local law enforcement agency.

(e) If the property owner has not acted to demolish, dispose of, or decontaminate as set forth in this subsection regardless of responsibility for costs, and the local health officer or local law enforcement agency has taken responsibility for demolition, disposal, or decontamination, including all associated costs, then all rights, title, and interest in the property shall be deemed forfeited to the local health jurisdiction or the local law enforcement agency.

(f) This subsection may not be construed to limit the authority of a city, county, local law enforcement agency, or local health officer to take action under this chapter to require the owner of the real property upon which the contaminated vehicle or vessel is located to comply with the requirements of this chapter, including provisions for the right of notice and opportunity to appeal as provided in RCW 64.44.030.

(3) Except as provided in subsection (2) of this section, the local health officer has thirty days from the issuance of an order declaring a property unfit and prohibiting its use to establish a reasonable timeline for decontamination. The department of health shall establish the factors to be considered by the local health officer in establishing the appropriate amount of time.

The local health officer shall notify the property owner of the proposed time frame by United States mail to the last known address. Notice shall be postmarked no later than the thirtieth day from the issuance of the order. The property owner may request a modification of the time frame by submitting a letter identifying the circumstances which justify such an extension to the local health officer within thirty-five days of the date of the postmark on the notification regardless of when received.

DEMOLITION OF PROPERTY IN LIEU OF REMEDIATION

WEST VIRGINIA

- W. VA. CODE ANN. 60A-11-5 (West 2008): (a) Upon notification to the residential property owner by a law-enforcement agency that chemicals, equipment, supplies or precursors indicative of a clandestine drug laboratory have been located on the residential property owner's property, the residential property owner shall be responsible for actions necessary to meet the remediation standards established by the legislative rule authorized by this article. The residential property owner is responsible for actions to ensure the residential property shall remain unoccupied from the time the residential property owner is notified of the clandestine drug laboratory until such time as the department certifies that the completed remediation meets the numeric decontamination levels set forth in the legislative rule authorized in this article. The department shall have forty-five days from receipt of all necessary paperwork and documentation to complete remediation certification: *Provided,* That a residential property owner may demolish the residential property as an alternative to meeting the remediation standards established by the department.

  (b) Once the remediation has been certified complete by the department, the residential property owner and any representative or agent of a residential property owner who neither knew or should have known of the property's illegal use shall be immune from civil liability for action brought for injuries or loss based upon the prior use of the residential property as a clandestine drug laboratory by future owners, renters, lessees or any other person who occupies the residential property.

  (c) Any residential property owner who neither knew or should have known of the property's illegal use who chooses to voluntarily and successfully complete the remediation prior to notification by a law-enforcement agency shall have the same immunity from liability as set forth in subsection (b) of this section if the remediation meets the certification standards set forth in legislative rules authorized by this article.

- W. VA. CODE R. § 64-92-6 (2008): 6.1. A residential property owner who has been notified by a law enforcement agency of a clandestine drug laboratory on his or her property shall:

  6.1.a. Ensure the residential property remains unoccupied and secured until a certificate of remediation completion is issued for the property by the department or until the property is properly demolished and/or disposed; and

  6.1.b. Remediate the residential property in accordance with the provisions of this rule or demolish and/or dispose the residential property within thirty days of notification by a law enforcement agency.

DEMOLITION OF PROPERTY IN LIEU OF REMEDIATION

6.2. A residential property owner may delegate, in writing, the responsibilities for compliance with this section to a person who is responsible for the operation of the residential property or to the person who contracts for the remediation or demolition and/or disposal of the property.

6.3. A residential property owner, seller or landlord shall disclose the certificate of remediation completion, issued by the department and acquired in accordance with subsection 9.2 of this rule, to any potential occupant of the residential property.

WISCONSIN

- NOT FOUND

WYOMING

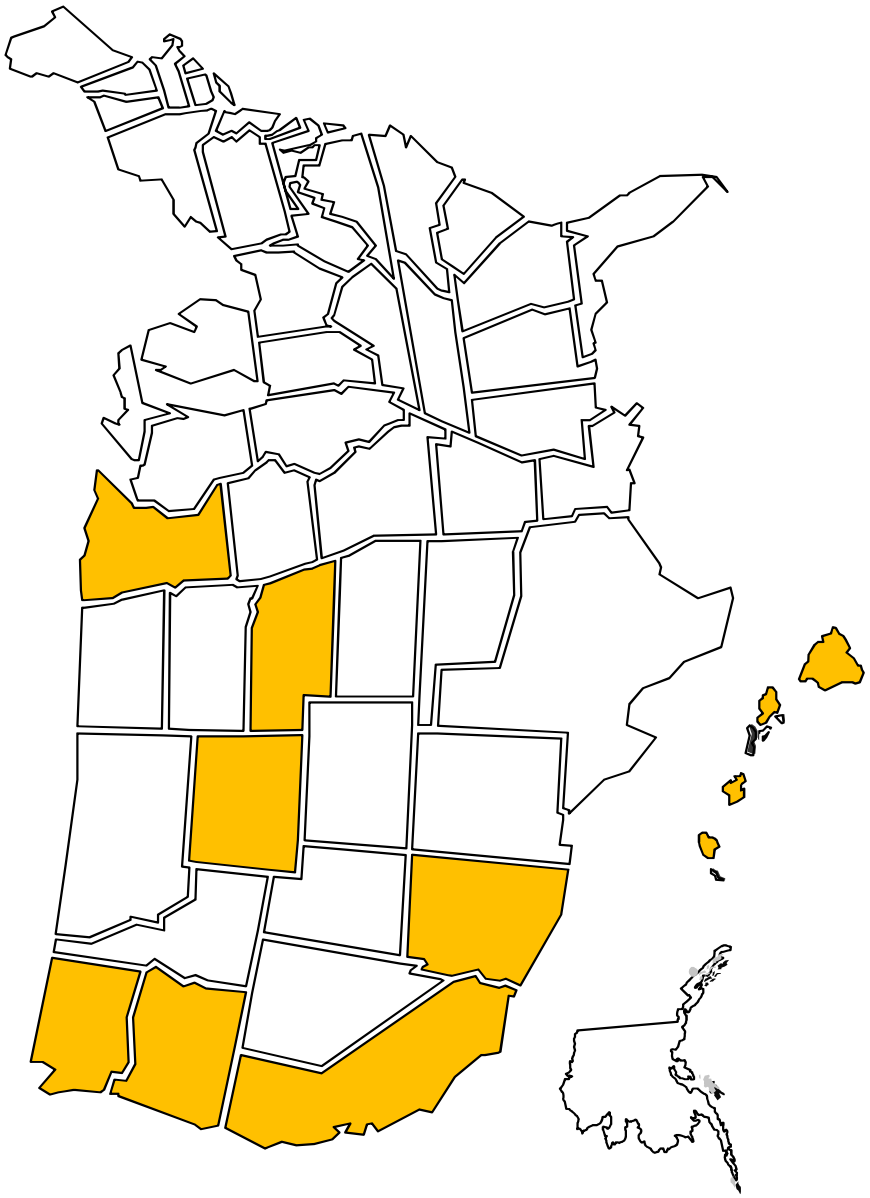
- NOT FOUND

PROPERTY OWNER LIABLITY FOR REMEDIATION COSTS

Generally, it is a property owner's responsibility to initiate and finance the remediation of contaminated property. However, there are instances where state agencies, political subdivisions and first responders incur costs associated with the removal, decontamination and remediation of contaminated private property. Some states allow state agencies, political subdivisions and first responders to seek reimbursement of these costs from a property owner.

Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

STATES WITH STATUES, REGULATIONS OR GUIDELINES THAT HOLD A PROPERTY OWNER LIABLE FOR REMEDIATION COSTS



PROPERTY OWNER LIABILITY FOR REMEDIATOIN COSTS

ALABAMA

- NOT FOUND

ALASKA

- NOT FOUND

ARIZONA

- ARIZ. REV. STAT. ANN. § 12-1000(C) (2008): The owner of the real property shall remediate the residually contaminated portion of the real property within twelve months after the date of notice of removal by retaining a registered drug laboratory site remediation firm pursuant to title 32, chapter 1. If the owner of the real property fails to remediate the property under this subsection, a county or city in this state may remediate the property using a registered remediation firm contracted by any county or city in this state with the cost of remediation passed on to the property owner in the form of a lien on the property title.

ARKANSAS

- NOT FOUND

CALIFORNIA

- CAL. HEALTH & SAFETY CODE §25400.20 (West 2008): (a) Upon completing an inspection pursuant to Section 25400.19, the local health officer shall immediately determine whether the property is contaminated.

  (b) If the local health officer determines the property is contaminated, the local health officer shall take the actions specified in Section 25400.22.

  (c) If the local health officer determines that the property is not contaminated, within three working days after making that determination, the local health officer shall remove all notices posted pursuant to Section 25400.18 and prepare a written documentation of this determination, which shall include all of the following:

  (1) Findings and conclusions.

  (2) Name of the property owner, and, if applicable, mailing and street address or space number of the property or vehicle identification number of the recreational vehicle.

  (3) Parcel identification number, if applicable.

(d) Within 10 working days after preparing a written documentation of the determination made pursuant to subdivision (c) that the property is not contaminated, the local health officer shall send a copy of the documentation to the property owner, and to the local agency responsible for enforcement of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13).

(e) In the case of a property specified in paragraph (2) of subdivision (t) of Section 25400.11, the local health officer shall, upon completing the inspection pursuant to Section 25400.19 determine the responsibility for the remediation required pursuant to this chapter in accordance with the following:

(1) Except as provided in paragraph (3), if the land on which the mobilehome, manufactured home, or recreational vehicle is located is contaminated, the owner of the mobilehome park or special occupancy park shall be held responsible for compliance with this chapter.

(2) Except as provided in paragraph (3), if the mobilehome, manufactured home, or recreational vehicle is contaminated, the registered owner of the mobilehome, manufactured home, or recreational vehicle shall be held responsible for compliance with this chapter.

(3) If both the land on which the mobilehome, manufactured home, or recreation vehicle is located is contaminated and the mobilehome, manufactured home, or recreational vehicle itself is contaminated, the local health officer shall determine, based on the local health officer's findings and determinations, whether the owner of the mobilehome park or special occupancy park or the registered owner of the mobilehome, manufactured home, or recreational vehicle, or both, shall be held responsible for compliance with this chapter. The local health officer shall submit a notice to each owner determined to be responsible for remediation, as to the owner's individual responsibility pursuant to this chapter.

(4) If the local health officer makes the determination specified in paragraph (2) or (3), the mobilehome park or special occupancy park manager and the owner of the land on which the mobilehome, manufactured home, or recreational vehicle is located shall also receive a copy of any notice served on the registered owner, lessee, renter, or occupant of the mobilehome, manufactured home, or recreational vehicle.

- CAL. HEALTH & SAFETY CODE § 25400.28(c)(6) (West 2008): (c)(6) An activity specified in paragraph (5) to remove and dispose of the mobilehome, manufactured home, or recreational vehicle shall only be taken by an authorized contractor. In addition to any other requirements of this chapter, the registered owner of the recreational vehicle or

registered owner of the mobilehome or manufactured home, as applicable, is severally and collectively liable for the cost of any remediation ordered by the local health officer.

- CAL. HEALTH & SAFETY CODE § 25400.30 (West 2008): (a)(1) If a property owner does not initiate or complete the remediation of property in compliance with an order issued by a local health officer pursuant to this chapter, the city or county in which the property is located may, at its discretion, take action to remediate the contaminated or residually contaminated portion of the property pursuant to this chapter or may seek a court order to require the property owner to remediate the property in compliance with this chapter.

  (2) Before a city or county takes an action pursuant to subdivision (a) regarding property specified in paragraph (2) of subdivision (t) of Section 25400.11, the city or county shall give a written notice of not less than 10 days in advance to the mobilehome park or special occupancy park owner to allow for remediation by the mobilehome park or special occupancy park owner in the manner prescribed by this chapter in addition to any other notice required by this section. If the mobilehome park or special occupancy park owner agrees, in writing, to undertake that remediation in compliance with the order, the city or county shall not take action pursuant to this section unless the owner is not in compliance with the agreement.

  (b) If a local health officer is unable to locate a property owner within 10 days after the date the local health officer issues an order pursuant to Section 25400.22, the city or county in which the property is located may remediate the property in accordance with this article. The city or county or its contractors may remove contaminated property as part of this remediation activity.

  (c) If a city or county elects to remediate contaminated property pursuant to this article, the property owner is liable for, and shall pay the city or county for, all actual costs related to the remediation, including, but not limited to, all of the following:

  (1) Posting and physical security of the contaminated site.

  (2) Notification of affected people, businesses or any other entity.

  (3) Actual expenses related to the recovery of cost, laboratory fees, cleanup services, removal costs, and administrative and filing fees.

  (d) If a real property owner does not pay the city or county for the costs of remediation specified in subdivision (c), the city or county may record a nuisance abatement lien pursuant to Section 38773.1 of the Government Code against the real property for the actual costs related to the remediation or bring an action against the real property owner

for the remediation costs. The nuisance abatement lien shall have the effect, priority, and enforceability of a judgment lien from the date of its recordation.

- CAL. HEALTH & SAFETY CODE § 25400.46 (West 2008): (a) A property owner who receives an order issued by a local health officer pursuant to Section 25400.22, or a property owner who owns property that is the subject of a notice posted pursuant to subdivision (i) of Section 25400.22, is liable for, and shall pay all of the following costs if it is determined that the property is contaminated:

  (1) The cost of any testing.

  (2) Any cost related to maintaining records with regard to the property.

  (3) The cost of remediating the property, including any decontamination or disposal expenses.

  (4) Any actual cost incurred by the local health officer or any other local or state agency resulting from the enforcement of this chapter and oversight of the implementation of the PSA work plan and the PSA report, with regard to that property.

  (b) A person who conducts methamphetamine laboratory activity on or at property subject to subdivision (a), and who is not the owner of that property, is liable for, and shall reimburse the owner of the property for, any cost that property owner may incur pursuant to subdivision (a).

  (c) The owner of a mobilehome, manufactured home, or recreational vehicle, in or about which a methamphetamine laboratory activity occurred, is liable for, and shall reimburse the owner of the real property on which the mobilehome, manufactured home, or recreational vehicle is located for, any cost the owner of the real property incurs pursuant to subdivision (a).

- CAL. HEALTH & SAFETY CODE § 25400.47 (West 2008): (a) If the registered owner of a mobilehome, manufactured home, or recreational vehicle, in or about which methamphetamine laboratory activity occurred, does not take the action required by subdivision (b) of Section 25400.25, within 30 days, as required by the order issued by a local health officer, or does not pay the city or county for the costs of remediation specified in subdivision (c) of Section 25400.30, the mobilehome park or special occupancy park owner may immediately initiate the actions authorized by paragraph (5) of subdivision (c) of Section 25400.28, including, but not limited to, terminating the tenancy of the owner of the mobilehome, manufactured home, or recreational vehicle, if any, by a written noncurable three-day notice to quit, and not later than 30 days after

restitution of possession of the real property, or vacation or abandonment of the tenancy, the mobilehome park or special occupancy park owner or operator may abate any nuisance and take any of the following actions:

(1) Remediate the mobilehome, manufactured home, or recreational vehicle in accordance with the requirements of this chapter, in compliance with the PSA workplan.

(2) Immediately cause an authorized contractor, to remove and dispose of the mobilehome, manufactured home, or recreational vehicle.

(3) Remove and dispose of the mobilehome, manufactured home, or recreational vehicle.

(4) In a special occupancy park, notwithstanding Section 3072 of the Civil Code or Sections 22851.3 or 22851.8 of the Vehicle Code, or in a mobilehome park, enforce a warehouseman's lien in accordance with Sections 7209 and 7210 of the Commercial Code against the recreational vehicle.

(b) If the owner of a mobilehome, manufactured home, or recreational vehicle, in or about which methamphetamine laboratory activity occurred, does not pay the city or county for the costs of remediation specified in subdivision (c) of Section 25400.30, or does not reimburse the mobilehome park or special occupancy park owner where the mobilehome, manufactured home, or recreational vehicle is located, for any cost that the mobilehome park owner incurs pursuant to this chapter to remediate the property, a mobilehome park owner may, in addition to any other remedy allowed by law, treat the amount due as rent and serve a notice and initiate an action for nonpayment of rent as allowed by Section 798.56 of the Civil Code and a special occupancy park owner may treat the amount due as rent and serve a notice and initiate any action permitted for nonpayment of rent pursuant to the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of the Civil Code).

(c)(1) A warehouseman's lien may be enforced pursuant to paragraph (4) of subdivision (a) only if the notification specified in paragraph (c) of subdivision (2) of Section 7210 of the Commercial Code, in addition to including the itemized statement of the claim of the mobilehome park or special occupancy park owner, also includes an itemized statement of the city or county, if the city or county submits to the mobilehome park or special occupancy park owner a claim for the costs of remediation specified in subdivision (c) of Section 25400.30 at least 10 days before service of the notification.

(2) A mobilehome park or special occupancy park owner may satisfy a warehouseman's lien first from the proceeds of the sale of the mobilehome, manufactured home, or recreational vehicle.

(3) A warehouseman's lien enforced pursuant to this section that does not include a claim submitted by the city or county pursuant to paragraph (1) shall be deemed to meet the notification requirements of paragraph (1), but any balance of the proceeds of any sale shall be held pursuant to subdivision (6) of Section 7210 of the Commercial Code, for delivery on demand to the city or county, and thereafter to any person to whom the mobilehome park or special occupancy park owner would have been bound to deliver the mobilehome, manufactured home, or recreational vehicle.

COLORADO

- NOT FOUND

CONNECTICUT

- NOT FOUND

DELAWARE

- NOT FOUND

FLORIDA

- NOT FOUND

GEORGIA

- NOT FOUND

HAWAII

- HAW. CODE R. § 11-452-39(a) (Weil 2007): (a) The owner and operator of the property on which a methamphetamine manufacturing site is located, shall, in coordination with the hazard evaluation and emergency response office, hire a cleanup contractor that specialized in responding to environmentally contaminated sites. Any and all costs incurred from the decontamination and cleanup of a methamphetamine manufacturing site shall be the responsibility of the owner and operator of the property on which the methamphetamine manufacturing site is located.

- HAW. CODE R. § 11-452-43 (Weil 2007): The hazard evaluation and emergency response office shall issue a no further action determination, provided that:

  (1) The final report is deemed accurate by the hazard evaluation and emergency response office;

(2) The hazard evaluation and emergency response office determines that the cleanup effort has decontaminated the property in accordance with the approved work plan and approved decontamination procedures; and

(3) The hazard evaluation and emergency response office verifies that the cleanup is in compliance with Hawaii law.

In the event that new information is subsequently discovered that would alter the determination of no further action, the matter shall be reconsidered and may be reassessed at the owner's expense. All costs associated with the reconsideration and reassessment of the decontamination and cleanup of a methamphetamine manufacturing site shall be the responsibility of the owner of the property on which a methamphetamine site is located.

IDAHO
- NOT FOUND

ILLINOIS
- NOT FOUND

INDIANA
- NOT FOUND

IOWA
- NOT FOUND

KANSAS
- NOT FOUND

KENTUCKY
- NOT FOUND

LOUISIANA
- NOT FOUND

MAINE
- NOT FOUND

MARYLAND
- NOT FOUND

PROPERTY OWNER LIABILITY FOR REMEDIATOIN COSTS

MASSACHUSETTS

- NOT FOUND

MICHIGAN

- NOT FOUND

MINNESOTA

- MINN. STAT. ANN. § 152.0275, Subd. 2 (n) (West 2008): (n) Unless the buyer or transferee and seller or transferor agree to the contrary in writing before the closing of the sale, a seller or transferor who fails to disclose, to the best of their knowledge, at the time of sale any of the facts required, and who knew or had reason to know of methamphetamine production on the property, is liable to the buyer or transferee for:

  (1) costs relating to remediation of the property according to the Department of Health's clandestine drug labs general cleanup guidelines and best practices.

  (2) reasonable attorney fees for collection of costs from the seller or transferor.

  An action under this paragraph must be commenced within six years after the date on which the buyer or transferee closed the purchase or transfer of the real property where the methamphetamine production occurred.

- Minnesota Department of Health and Minnesota Pollution Control Agency, *Clandestine Drug Lab General Cleanup Guidance*, 8 (Apr. 3, 2007): The property owner is responsible for the cost of remediation.

MONTANA

- NOT FOUND

NEBRASKA

- NEB REV. STAT. § 71-2434(2) (2007): (2) A local public health department may charge and collect fees from the owner or owners of contaminated property to cover the costs directly associated with monitoring the rehabilitation of such property under this section as provided in rules and regulations of the department. A local public health department may contract with other local public health departments or other appropriate entities to assist in the monitoring of such rehabilitation. Upon the completion of such rehabilitation, the local public health department shall release the property for human habitation and commercial or other use in a timely manner.

PROPERTY OWNER LIABILITY FOR REMEDIATOIN COSTS

NEVADA
- NOT FOUND

NEW HAMPSHIRE
- NOT FOUND

NEW JERSEY
- NOT FOUND

NEW MEXICO
- NOT FOUND

NEW YORK
- NOT FOUND

NORTH CAROLINA
- NOT FOUND

NORTH DAKOTA
- NOT FOUND

OHIO
- NOT FOUND

OKLAHOMA
- NOT FOUND

OREGON
- OR. REV. STAT. ANN. § 453.886 (2007): (1) Before incurring costs to decontaminate a property that is a nuisance described in ORS 105.555 (1)(c) or to have the property certified as fit for use under ORS 453.885, a county or other local government shall give notice to each owner of record for the property and to each person that has a mortgage, trust deed or other lien on the property recorded in the county deed records. A notice given by the county or local government to an owner or lienholder shall allow the owner or lienholder not less than 60 days to respond.

  (2) An owner or lienholder making a timely response to a notice given under subsection (1) of this section may propose a course of action by the owner or lienholder to decontaminate and obtain certification of the property within a reasonable time. If the owner or lienholder proposes a course of action that may be reasonably expected to

achieve the decontamination and certification of the property, except as provided in this subsection the county or other local government shall suspend other efforts to decontaminate or obtain certification of the property. This subsection does not prevent the county or local government from securing the property by obtaining an injunction against use of the property.

(3) If more than one owner or lienholder proposes a reasonable course of action for a property, the county or other local government may require that the owners and lienholders proposing courses of action work together to decontaminate and obtain certification of the property. The county or local government may require an owner or lienholder to periodically report to the county or local government regarding efforts to carry out a course of action. The county or local government may resume efforts to decontaminate and obtain certification of a property if the county or local government determines, after opportunity for a hearing, that an owner or lienholder has failed to diligently pursue the course of action proposed by the owner or lienholder and to complete the course of action within a reasonable time.

(4) A lien under ORS 105.585 (2) for costs incurred by the county or local government in decontaminating and obtaining certification of the property is superior to, has priority over and shall be fully satisfied before all other liens, judgments, mortgages, security interests or encumbrances on the property other than tax liens, regardless of the date of creating, filing or recording of the lien, judgment, mortgage, security interest or encumbrance, if the county or other local government incurs the cost after giving notice to owners and lienholders under subsection (1) of this section and:

(a) No owner or lienholder provided a response on or before the 60th day after the giving of the notice; or

(b) An owner or lienholder for the property timely responded to the notice with a proposed course of action for decontaminating and obtaining certification of the property, but failed to complete the course of action within:

(A) Eight months after the notice date; or

(B) A date more than eight months after the notice date that was agreed to by the county or local government that gave the notice and the owner or lienholder that timely responded to the notice.

- OR. REV. STAT. ANN. § 475.455 (2007): (1) The following persons shall be strictly liable for those cleanup costs incurred by the state or any other person that are attributable to or

associated with an alleged illegal drug manufacturing site and for damages for injury to or destruction of any natural resources caused by chemicals at the site:
(a) Any owner or operator at or during the time of the acts or omissions that resulted in a site being created or damage to natural resources.

(b) Any owner or operator who became the owner or operator after the time of the acts or omissions that resulted in a site being created or damages, and who knew or reasonably should have known of the site or damages when the person first became the owner or operator.

(c) Any owner or operator who obtained actual knowledge of the site or damages during the time the person was the owner or operator of the site and then subsequently transferred ownership or operation of the site to another person without disclosing such knowledge.

(d) Any person who, by any acts or omissions, caused, contributed to or exacerbated the site or damage, unless the acts or omissions were in material compliance with applicable laws, standards, regulations, licenses or permits.

(e) Any person who unlawfully hinders or delays entry to, investigation of or cleanup action at a site.

(2) Except as provided in subsection (1)(b) to (e) of this section and subsection (4) of this section, the following persons shall not be liable for cleanup costs incurred by the state or any other person that are attributable to or associated with a site, or for damages for injury to or destruction of any natural resources caused by chemicals at the site:
(a) Any owner or operator who became the owner or operator after the time of the acts or omissions that resulted in the site being created or damages, and who did not know and reasonably should not have known of the damages when the person first became the owner or operator.

(b) Any owner or operator of property that was contaminated by the migration of chemicals from real property not owned or operated by the person.

(c) Any owner or operator at or during the time of the acts or omissions that resulted in the site or damages, if the site or damage at the site was caused solely by one or a combination of the following:

(A) An act of God. "Act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(B) An act of war.

(C) Acts or omissions of a third party, other than an employee or agent of the person asserting this defense, or other than a person whose acts or omissions occur in connection with a contractual relationship, existing directly or indirectly, with the person asserting this defense. As used in this subparagraph, "contractual relationship" includes but is not limited to land contracts, deeds or other instruments transferring title or possession.

(3) Except as provided in subsection (1)(c) to (e) of this section or subsection (4) of this section, the following persons shall not be liable for cleanup costs incurred by the state or any other person that are attributable to or associated with an alleged illegal drug manufacturing site, or for damages for injury to or destruction of any natural resources caused by chemicals at the site:
(a) A unit of state or local government that acquired ownership or control of a site in the following ways:

(A) Involuntarily by virtue of its function as sovereign, including but not limited to escheat, bankruptcy, tax delinquency or abandonment; or

(B) Through the exercise of eminent domain authority by purchase or condemnation.
(b) A person who acquired a site by inheritance or bequest.

(4) Notwithstanding the exclusions from liability provided for specified persons in subsections (2) and (3) of this section, such persons shall be liable for cleanup costs incurred by the state or any other person that are attributable to or associated with a site, and for damages for injury to or destruction of any natural resources caused by chemicals at a site, to the extent that the person's acts or omissions contribute to such costs or damages, if the person:
(a) Obtained actual knowledge of the chemicals at a site or damages and then failed to promptly notify the Department of Environmental Quality and exercise due care with respect to the chemicals concerned, taking into consideration the characteristics of the chemicals in light of all relevant facts and circumstances; or

(b) Failed to take reasonable precautions against the reasonably foreseeable acts or omissions of a third party and the reasonably foreseeable consequences of such acts or omissions.

(5)(a) No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from any person who may be liable under this section, to any other person, the liability imposed under this section. Nothing in this section shall bar any

agreement to insure, hold harmless or indemnify a party to such agreement for any liability under this section.

(b) A person who is liable under this section shall not be barred from seeking contribution from any other person for liability under this section.

(c) Nothing in ORS 475.415 to 475.455, 475.475 and 475.485 shall bar a cause of action that a person liable under this section or a guarantor has or would have by reason of subrogation or otherwise against any person.

(d) Nothing in this section shall restrict any right that the state or any person might have under federal statute, common law or other state statute to recover cleanup costs or to seek any other relief related to the cleanup of an alleged illegal drug manufacturing site.

(6) To establish, for purposes of subsection (1)(b) of this section or subsection (2)(a) of this section, that the person did or did not have reason to know, the person must have undertaken, at the time of acquisition, all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability.

(7)(a) Except as provided in paragraph (b) of this subsection, no person shall be liable under ORS 475.415 to 475.455, 475.475 and 475.485 for costs or damages as a result of actions taken or omitted in the course of rendering care, assistance or advice in accordance with rules adopted by the Environmental Quality Commission or at the direction of the department or its authorized representative, with respect to an incident creating a danger to public health, safety, welfare or the environment as a result of any cleanup of a site. This paragraph shall not preclude liability for costs or damages as the result of negligence on the part of such person.

(b) No state or local government shall be liable under this section for costs or damages as a result of actions taken in response to an emergency created by the chemicals at or generated by or from a site owned by another person. This paragraph shall not preclude liability for costs or damages as a result of gross negligence or intentional misconduct by the state or local government. For the purpose of this paragraph, reckless, willful or wanton misconduct shall constitute gross negligence.

(c) This subsection shall not alter the liability of any person covered by subsection (1) of this section.

PENNSYLVANIA

- NOT FOUND

PROPERTY OWNER LIABILITY FOR REMEDIATOIN COSTS

RHODE ISLAND
- NOT FOUND

SOUTH CAROLINA
- NOT FOUND

SOUTH DAKOTA
- NOT FOUND

TENNESSEE
- NOT FOUND

TEXAS
- NOT FOUND

UTAH
- NOT FOUND

PROPERTY
- NOT FOUND

VERMONT
- NOT FOUND

VIRGINIA
- NOT FOUND

WASHINGTON
- WASH. REV. CODE ANN. § 64.44.050 (West 2008) (as amended by 2008 H.B. 2817): (1) An owner of contaminated property who desires to have the property decontaminated, demolished, or disposed of shall use the services of an authorized contractor unless otherwise authorized by the local health officer. The contractor and property owner shall prepare and submit a written work plan for decontamination, demolition, or disposal to the local health officer. The local health officer may charge a reasonable fee for review of the work plan. If the work plan is approved and the decontamination, demolition, or disposal is completed and the property is retested according to the plan and properly documented, then the health officer shall allow reuse of the property. A release for reuse document shall be recorded in the real property records indicating the property has been decontaminated, demolished, or disposed of in accordance with rules of the state

department of health. The property owner is responsible for: (a) The costs of any property testing which may be required to demonstrate the presence or absence of hazardous chemicals; and (b) the costs of the property's decontamination, demolition, and disposal expenses, as well as costs incurred by the local health officer resulting from the enforcement of this chapter.

(2)(a) In a case where the contaminated property is a motor vehicle as defined in RCW 46.04.320, a vehicle as defined in RCW 46.04.670, or a vessel as defined in RCW 88.02.010, and the local health officer has issued an order declaring the property unfit and prohibiting its use, the city or county in which the property is located shall take action to prohibit use, occupancy, or removal, and shall require demolition, disposal, or decontamination of the property. The city, county, or local law enforcement agency may impound the vehicle or vessel to enforce this chapter.

(b) The property owner shall have the property demolished, disposed of, or decontaminated by an authorized contractor, or under a written work plan approved by the local health officer, within thirty days of receiving the order declaring the property unfit and prohibited from use. After all procedures granting the right of notice and the opportunity to appeal in RCW 64.44.030 have been exhausted, if the property owner has not demolished, disposed of, or decontaminated the property using an authorized contractor, or under a written work plan approved by the local health officer within thirty days, then the local health officer or the local law enforcement agency may demolish, dispose of, or decontaminate the property. The property owner is responsible for the costs of the property's demolition, disposal, or decontamination, as well as all costs incurred by the local health officer or the local law enforcement agency resulting from the enforcement of this chapter, except as otherwise provided under this subsection.

(c) The legal owner of a motor vehicle as defined in RCW 46.04.320, a vehicle as defined in RCW 46.04.670, or a vessel as defined in RCW 88.02.010 whose sole basis of ownership is a bona fide security interest is responsible for costs under this subsection if the legal owner had knowledge of or consented to any act or omission that caused contamination of the vehicle or vessel.

(d) If the vehicle or vessel has been stolen and the property owner neither had knowledge of nor consented to any act or omission that contributed to the theft and subsequent contamination of the vehicle or vessel, the owner is not responsible for costs under this subsection. However, if the registered owner is insured, the registered owner shall, within fifteen calendar days of receiving an order declaring the property unfit and prohibiting its use, submit a claim to his or her insurer for reimbursement of costs of the property's demolition, disposal, or decontamination, as well as all costs incurred by the local health officer or the local law enforcement agency resulting from the enforcement

of this chapter, and shall provide proof of claim to the local health officer or the local law enforcement agency.

(e) If the property owner has not acted to demolish, dispose of, or decontaminate as set forth in this subsection regardless of responsibility for costs, and the local health officer or local law enforcement agency has taken responsibility for demolition, disposal, or decontamination, including all associated costs, then all rights, title, and interest in the property shall be deemed forfeited to the local health jurisdiction or the local law enforcement agency.

(f) This subsection may not be construed to limit the authority of a city, county, local law enforcement agency, or local health officer to take action under this chapter to require the owner of the real property upon which the contaminated vehicle or vessel is located to comply with the requirements of this chapter, including provisions for the right of notice and opportunity to appeal as provided in RCW 64.44.030.

(3) Except as provided in subsection (2) of this section, the local health officer has thirty days from the issuance of an order declaring a property unfit and prohibiting its use to establish a reasonable timeline for decontamination. The department of health shall establish the factors to be considered by the local health officer in establishing the appropriate amount of time.

The local health officer shall notify the property owner of the proposed time frame by United States mail to the last known address. Notice shall be postmarked no later than the thirtieth day from the issuance of the order. The property owner may request a modification of the time frame by submitting a letter identifying the circumstances which justify such an extension to the local health officer within thirty-five days of the date of the postmark on the notification regardless of when received.

- H.R. 2817, 2008 Leg., 60th Sess. (Wa. 2008): An impound under RCW 64.44.050 shall not be considered an impound under this chapter. A tow operator who contracts with a law enforcement agency for transporting a vehicle impounded under RCW 64.44.050 shall only remove the vehicle to a secure public facility, and is not required to store or dispose of the vehicle. The vehicle shall remain in the care, custody, and control of the law enforcement agency to be demolished, disposed of, or decontaminated as provided under RCW 64.44.050. The law enforcement agency shall pay for all costs incurred as a result of the towing if the vehicle owner does not pay within thirty days. The law enforcement agency may seek reimbursement from the owner.

PROPERTY OWNER LIABILITY FOR REMEDIATOIN COSTS

- WASH. ADMIN. CODE § 246-205-570 (2008): (1) An owner of contaminated property who desires to reduce the contamination shall use the services of an authorized contractor unless otherwise authorized by the local health officer.

  (2) The local health officer shall provide the property owner with a list of authorized contractors upon request.

  (3) When an authorized contractor is required for decontamination, the property owner shall have a written work plan approved by the local health officer before starting decontamination.

  (4) When an authorized contractor is required for decontamination, the contractor shall prepare the work plan in accordance with this chapter and chapter 64.44 RCW. When the local health officer determines the services of an authorized contractor are not necessary, the local health officer shall take appropriate measures to ensure the property is decontaminated consistent with the purposes of chapter 64.44 RCW.

  (5) The property owner or the contractor shall decontaminate the property according to the approved work plan and to meet the decontamination standards described in WAC 246-205-541.

  (6) The property owner shall be responsible for:

  (a) The costs of any property testing which may be required to demonstrate the presence or absence of hazardous chemicals;

  (b) The costs of the property's decontamination and disposal expenses, as well as costs incurred by the local health officer resulting from the enforcement of this chapter;

  (c) Keeping records documenting decontamination procedures and submitting notarized copies of all records to the local health officer; and

  (d) Petitioning the local health officer to review the decontamination records and to declare the property decontaminated.

WEST VIRGINIA

- NOT FOUND

WISCONSIN

- NOT FOUND

PROPERTY OWNER LIABILITY FOR REMEDIATOIN COSTS

WYOMING

- WYO. STAT. ANN. § 35-9-157 (2008): (a) The state, political subdivision of the state or other unit of local government is hereby given the right to claim reimbursement for the costs resulting from action taken to remove, contain or otherwise mitigate the effects of a hazardous materials abandonment, a hazardous materials spill or a weapons of mass destruction incident.

  (b) Notwithstanding subsection (a) of this section and except with respect to a response to a clandestine laboratory operation incident, no person shall be liable under this act if the incident was caused by:

  (i) An act of God; or

  (ii) An act or omission of a person not defined as a transporter under this act, provided that:

  (A) The potentially liable person exercised reasonable care with respect to the hazardous material involved, taking into consideration the characteristics of the hazardous material in light of all relevant facts and circumstances; and

  (B) The potentially liable person took reasonable precautions against foreseeable acts or omissions of any third person and the consequences that could foreseeably result from those acts or omissions.

  (c) Local emergency response authorities and regional emergency response teams shall be entitled to recover their reasonable and necessary costs incurred as a result of their response to a hazardous material or weapons of mass destruction incident. Costs subject to recovery under this act include, but are not limited to, the following:

  (i) Disposable materials and supplies acquired, consumed and expended specifically for the purpose of the response;

  (ii) Remuneration of employees for the time and efforts devoted to responding to a hazardous materials or weapons of mass destruction incident outside the responders' normal jurisdiction;

  (iii) A reasonable fee, as established through rules and regulations of the director, office of homeland security, for the use of equipment, including rolling stock, in responding to a hazardous materials or weapons of mass destruction incident outside the responders' normal jurisdiction;

(iv) Rental or leasing of equipment used specifically for the response;

(v) At value replacement costs for equipment owned by the person claiming reimbursement that is contaminated beyond reuse or repair, if the loss occurred as a result of the response;

(vi) Decontamination of equipment contaminated during the response;

(vii) Special technical services specifically requested and required for the response;

(viii) Medical monitoring or treatment of response personnel;

(ix) Laboratory expenses for analyzing samples taken during the response; and

(x) If determined to involve criminal activity, all costs and expenses of the investigation.

(d) Nothing contained in this section shall be construed to change or impair any right of recovery or subrogation arising under any other provision of law.

- WYO. STAT. ANN. § 35-9-158 (2008): (a) The decision to commence a civil action to recover expenses shall be made by the state, political subdivision of the state or other unit of local government, including local emergency response authorities and regional response teams, in consultation with the attorney general or county or municipal attorney as appropriate. With respect to a civil action to recover expenses for a clandestine laboratory operation incident, the governing body shall first make such claim against the party responsible for the clandestine laboratory operation and shall use the proceeds of any asset forfeiture directly related to the building or structure containing the clandestine laboratory to offset expenses, including expenses for remediation of the site. Claims of expenses for remediation for a clandestine laboratory operation incident may be made against the owner of a building or structure containing a clandestine laboratory operation only as follows:

  (i) The law enforcement agency acting as an emergency responder shall keep an accurate account of the expenses incurred in carrying out the remediation and shall report the actions and present a statement of the expenses incurred and the amount received from any salvage sale to the court for approval and allowance;

  (ii) The court shall examine, correct, if necessary, and allow the expense account to the extent the expenses exceed those recovered from the party responsible for the clandestine laboratory operation. If the owner did not know or could not with reasonable diligence

have known of the clandestine laboratory operation, the amount recoverable from the owner shall be limited to one percent (1%) of the fair market value as determined by the county assessor of that portion of the building, structure or land declared uninhabitable by the incident commander;

(iii) The amount allowed by the court constitutes a lien against the real property on which a clandestine laboratory operation incident occurred or was situated. If the amount is not paid by the owner within six (6) months after the amount has been examined and approved by the court, the real estate may be sold under court order by the county sheriff in the manner provided by law for the sale of real estate upon execution;

(iv) The proceeds of the sale shall be paid into the treasury of the governing body of the law enforcement agency acting as the emergency responder. If the amount received as salvage or upon sale exceeds the expenses allowed by the court, the court shall direct payment of the surplus to the previous owner for his use and benefit;

(v) Whenever any debt which is a lien pursuant to this subsection is paid and satisfied, the law enforcement agency acting as an emergency responder shall file notice of satisfaction of the lien statement in the office of the county clerk of any county in which the lien is filed; and

(vi) If the expenses of the law enforcement agency exceed the amount allowed by the court pursuant to paragraph (ii) of this subsection, the law enforcement agency acting as an emergency responder may apply for reimbursement of the excess expenses from the funds as authorized by W.S. 1-40-118(g)(i)(C). If the expenses further exceed amounts available under W.S. 1-40-118(g)(i)(C), the emergency responder may apply for reimbursement from the clandestine laboratory remediation account created pursuant to W.S. 35-9-159(f).

(b) Prior to commencing a civil action for recovery of expenses pursuant to this act, the governmental entity shall afford the person alleged to owe those expenses a reasonable opportunity to engage in nonbinding mediation. Each party to mediation shall bear his own costs and expenses, including a proportionate share of the fees of the mediator.

(c) In the event that the attorney general or county or municipal attorney prevails in a civil action for reimbursement under this act, the court shall award costs of collection including reasonable attorney's fees, investigation expenses and litigation expenses.

(d) Any person who receives remuneration for the emergency response expenses pursuant to any other federal or state law shall be precluded from recovering reimbursement for those expenses under this act. Nothing in this act shall otherwise affect or modify in any

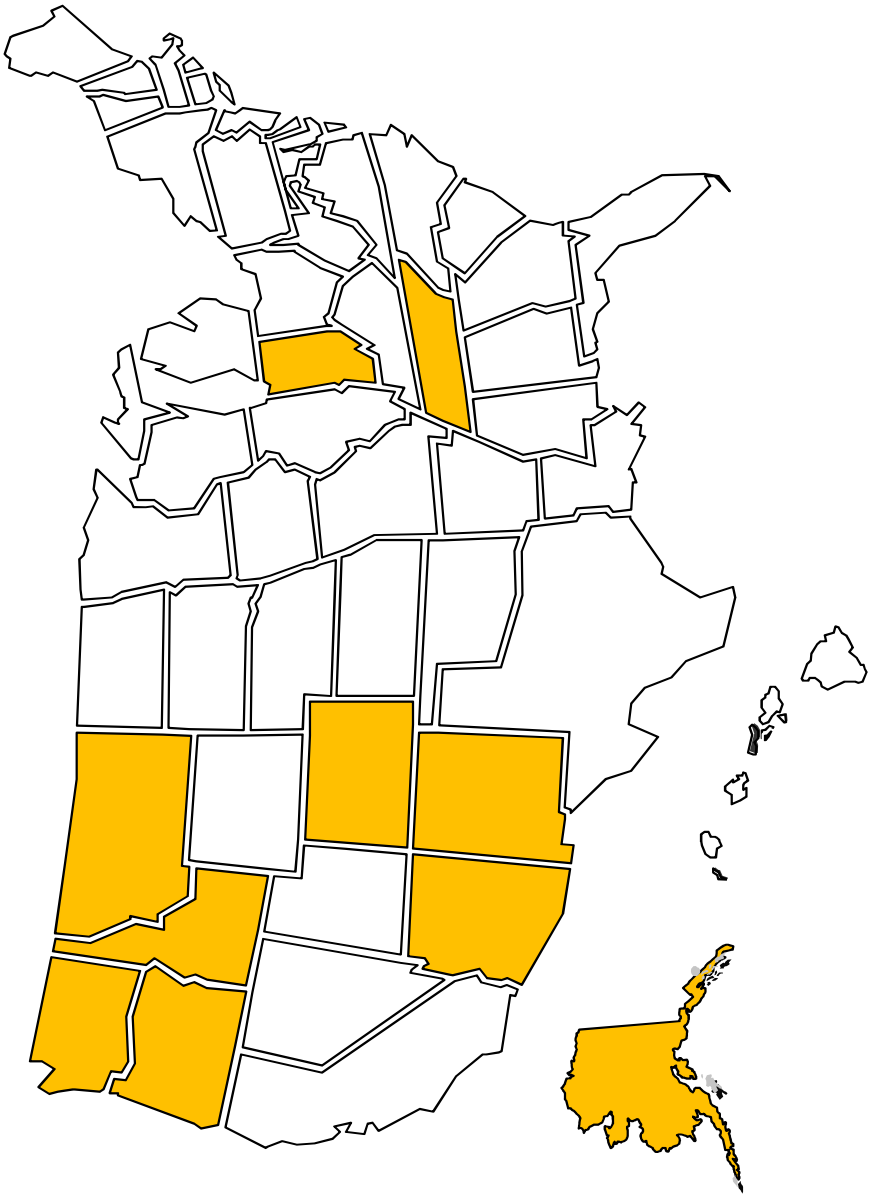
way the obligations or liability of any person under any other provision of state or federal law, including common law, for damages, injury or loss resulting from the release of any hazardous material or for remedial action or the expenses of remedial action for the release.

INDEPENDENT SAMPLING/TESTING CONTRACTOR REQUIREMENTS

In order to ensure remediation meets state standards, a number of states require that the contractor who will be collecting the samples for testing be independent from the remediation contractor, preventing any real or perceived conflict of interest.

Common Themes Regarding Properties Where Controlled Substance Laboratories Are Found

STATES WITH STATUES, REGULATIONS OR GUIDELINES ADDRESSING INDEPENDENT SAMPLING/TESTING CONTRACTOR REQUIREMENTS



INDEPENDENT SAMPLING/TESTING CONTRACTOR REQUIREMENTS

ALABAMA

- NOT FOUND

ALASKA

- ALASKA STAT. § 46.03.520 (2008): (a) If the owner of the property for which notice was received under AS 46.03.500(b) desires to determine if the property is fit for use, the owner shall cause the site to be sampled and tested for the substances covered in regulations adopted under AS 46.03.530, using the procedures and laboratory services specified under (b) and (c) of this section. The property owner shall inform the laboratory used for sampling or testing under this subsection that the sampling and testing are related to property that has been determined to be an illegal drug manufacturing site.

  (b) The department shall establish procedures for sampling and testing property that may have been an illegal drug manufacturing site.

  (c) The department shall establish and maintain a list of laboratories in the state that have notified the department that they have the capacity to perform the sampling and testing procedures and that they wish to be on the list maintained under this subsection. A laboratory may not be included on the list unless the laboratory agrees to send the department a copy of test results related to properties whose owners have informed the laboratory that the test results are for property that has been determined to be an illegal drug manufacturing site.

- Alaska Department of Environmental Conservation, *Guidance and Standards for Cleanup of Illegal Drug-Manufacturing Sites* [Revision 1], 4-2 (Apr. 19, 2007): The statute allows for the property owner or agent to conduct sampling activities. ADEC strongly recommends that the property owner contract a qualified environmental or health professional to conduct sampling and testing. The services of a third party professional will help ensure that sampling and testing activities are objective.

ARIZONA

- ARIZ. ADMIN. CODE § R4-30-305(C)(1) (2008): 1. Post-remediation sampling shall be conducted under the direct supervision of a Certified Industrial Hygienist, a Certified Safety Professional, Arizona-registered geologist or an Arizona-registered engineer. The individual taking the samples shall have experience with the remediation of hazardous substances, with confirmation sampling of remedial projects, and with evaluating health risks and exposures to chemicals. All sampling used to verify that no additional removal or cleaning is required shall be conducted under the direct supervision of a Certified Industrial Hygienist, Certified Safety Professional, Arizona-registered geologist or an

Arizona-registered engineer. All sample locations shall be photographed for documentation purposes, and these photographs shall be included in the final report.

ARKANSAS

- NOT FOUND

CALIFORNIA

- NOT FOUND

COLORADO

- 6 COLO. CODE REGS. § 1014-3-6.7 (2008): To prevent any real or potential conflicts of interest, consultants conducting preliminary assessments and post-cleanup assessments must be independent of the company that will subsequently conduct drug lab cleanup, except as provided in 6.7.1

  6.7.1 Consultants need not be independent of the company or entity that will subsequently conduct the drug lab cleanup if both the consultant and the cleanup entity are employees of the property owner, provided the property owner was not involved in drug manufacturing that resulted in contamination of the property.

CONNECTICUT

- NOT FOUND

DELAWARE

- NOT FOUND

FLORIDA

- NOT FOUND

GEORGIA

- NOT FOUND

HAWAII

- NOT FOUND

IDAHO

- IDAHO ADMIN. CODE r. § 16.02.24.201 (2008): 01. Qualified Industrial Hygienist Must Conduct Sampling. A qualified industrial hygienist must conduct sampling in accordance with Section 400 of these rules and meet the reporting requirements under Section 600 of these rules.

02. Qualified Industrial Hygienist Must Be Independent. To prevent any real or potential conflicts of interest, qualified industrial hygienists conducting sampling must be independent of the company or entity conducting the cleanup or analysis or both.

- IDAHO ADMIN. CODE r. § 16.02.24.400.01 (2008): 01. Qualified Industrial Hygienist Required. Sampling must be conducted by a qualified industrial hygienist to verify that cleanup standards have been met.

ILLINOIS

- NOT FOUND

INDIANA

- 318 IND. ADMIN. CODE §1-5-2(e) (2007): (e) All sample analysis must be conducted by an independent laboratory.

- 318 IND. ADMIN. CODE 1-5-6 (2008): (a) Each room and space in the contaminated property shall be sampled. Except as provided in subsection (g), the qualified inspector shall collect all of the samples required by this section in accordance with ASTM D 6661-01 or another equivalent method or practice.

IOWA

- NOT FOUND

KANSAS

- NOT FOUND

KENTUCKY

- NOT FOUND

LOUISIANA

- NOT FOUND

MAINE

- NOT FOUND

MARYLAND

- NOT FOUND

MASSACHUSETTS

INDEPENDENT SAMPLING/TESTING CONTRACTOR REQUIREMENTS

- NOT FOUND

MICHIGAN
- NOT FOUND

MINNESOTA
- NOT FOUND

MISSISSIPPI
- NOT FOUND

MISSOURI
- NOT FOUND

MONTANA
- MONT. ADMIN. R. 17.74.507 (2008): (1) A contractor performing a CML decontamination project pursuant to this subchapter shall:

  (e) have final clearance sampling conducted by an independent contractor who is not employed by the contractor described in (1), and who is certified by the department pursuant to this subchapter to perform that work.

NEBRASKA
- NOT FOUND

NEVADA
- NOT FOUND

NEW HAMPSHIRE
- NOT FOUND

NEW JERSEY
- NOT FOUND

NEW MEXICO
- N.M. CODE R. § 20.4.5.15(D) (Weil 2008): The owner shall retain a remediation firm to perform a post-remediation assessment of the residually contaminated portion of the property to determine that the requirements for remediation of residual contamination in this part have been met within seven days of receiving notice from the remediation firm that the residually contaminated portion of the property has been remediated.

- N.M. CODE R. § 20.4.5.16(A)(1) to (2) (Weil 2008): The evaluation and cleanup of residual contamination found at clandestine drug laboratories after chemicals and equipment have been removed shall meet the following standards.

  (1) Any preliminary assessment, remediation, and post-remediation assessment of a clandestine drug laboratory for the purpose of complying with this part shall be performed by a remediation firm that meets the requirements of this subsection. The department recommends that the remediation firm performing the preliminary and post-remediation assessments be a different firm than the one that performs the remediation, to ensure independent evaluation of work required and thoroughness of the remediation.

  (2) The remediation firm shall be under the direction of a certified industrial hygienist or be approved and currently registered to perform such work with a state, county, or municipal agency during the time the firm participates in the assessment or remediation of residual contamination. A firm's approval, certification, or registration with another state to perform assessments of residually contaminated properties will be accepted as meeting this requirement.

NEW YORK
- NOT FOUND

NORTH CAROLINA
- NOT FOUND

NORTH DAKOTA
- NOT FOUND

OHIO
- NOT FOUND

OKLAHOMA
- NOT FOUND

OREGON
- OR. ADMIN. R. § 333-040-0070(3) (2008): (3) The contractor shall insure that all samples collected from the site, including the taking of air, surface and bulk samples prior to and after decontamination of the property are performed by independent, qualified personnel using industry-recognized standards and protocols. The contractor shall insure that the sampling personnel utilize the Division's Drug Lab Field and Sampling Guidelines.

(a) The contractor shall insure that all laboratory tests on the samples collected from the site are performed by a laboratory following standard laboratory practices. The laboratory shall:

(A) Be currently certified or approved under appropriate state, federal, or professional programs;

(B) Use standard methods and procedures when available;

(C) Have implemented a quality assurance program, including use of quality control measures, that is acceptable to the Division; and

(D) Have a US Drug Enforcement Administration registration on file with the Division if analyzing for controlled substances.

- OR. ADMIN. R. § 333-040-0135 (2008): Persons collecting site samples shall have the following minimum qualifications:

(1) Have completed hazardous materials training, as set forth in OAR 333-040-0110(5); and

(2) Be a certified Industrial Hygienist (CIH); or

(3) Have a Bachelor of Science Degree in Health and Safety, Industrial Hygiene, Environmental Sciences, or Basic Sciences, and six months experience working with or for a professional environmental or industrial hygiene firm, Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA), Department of Environmental Quality (DEQ), or for an environmental laboratory certified under a state, federal, or professional program; or

(4) Have an Associate Degree in Hazardous Materials Management or Environmental Evaluations/Chemistry, and one year experience working under the direct supervision of personnel identified in section (2) or (3) of this rule. Persons who have been collecting samples at drug lab sites consistently since prior to January 1, 2000, are exempt from the requirements in sections (2), (3), and (4) of this rule.

PENNSYLVANIA

- NOT FOUND

RHODE ISLAND

INDEPENDENT SAMPLING/TESTING CONTRACTOR REQUIREMENTS

- NOT FOUND

SOUTH CAROLINA
- NOT FOUND

SOUTH DAKOTA
- NOT FOUND

TENNESSEE
- TENN. COMP. R. & REGS. 12200-1-19.02(1) (2008): (1) Samples shall be collected and interpreted by a professional certified by the Commissioner as being able to perform the services of an industrial hygienist. Any person holding a certification from the American Board of Industrial Hygienists as a Certified Industrial Hygienist is deemed certified by this rule as being able to perform these services. Other persons who have the qualifications as industrial hygienists under TCA § 62-40-101 may make a written request to the Commissioner to be included on the list of persons or entities entitled to perform the services of industrial hygienists for the purposes of these rules.

TEXAS
- NOT FOUND

UTAH
- NOT FOUND

VERMONT
- NOT FOUND

VIRGINIA
- NOT FOUND

WASHINGTON
- WASH. REV. CODE ANN. § 64.44.070 (West 2008): (1) The state board of health shall promulgate rules and standards for carrying out the provisions in this chapter in accordance with chapter 34.05 RCW, the administrative procedure act. The local board of health and the local health officer are authorized to exercise such powers as may be necessary to carry out this chapter. The department shall provide technical assistance to local health boards and health officers to carry out their duties under this chapter.

  (2) The department shall adopt rules for decontamination of a property used as a laboratory for the production of controlled substances and methods for the testing of

porous and nonporous surfaces, ground water, surface water, soil, and septic tanks for contamination. The rules shall establish decontamination standards for hazardous chemicals, including but not limited to methamphetamine, lead, mercury, and total volatile organic compounds.

(3) The department shall adopt rules regarding independent third party sampling including those pertaining to:

(a) Verification of possible property contamination due to the illegal manufacture of controlled substances;

(b) Verification of satisfactory decontamination of property deemed contaminated and unfit for use;

(c) Certification of independent third party samplers;

(d) Qualifications and performance standards for independent third party samplers;

(e) Administration of background checks for third party sampler applicants; and

(f) The denial, suspension, or revocation of independent third party sampler certification.

(4) For the purposes of this section, an independent third party sampler is a person who is not an employee, agent, representative, partner, joint venturer, shareholder, or parent or subsidiary company of the authorized contractor, the authorized contractor's company, or the property owner.

- WASH. ADMIN. CODE § 246-205-531 (2008): (1) The analytical results obtained through sampling may be used as a method to determine contamination. Types of sample collection include, but are not limited to:
  (a) Nonporous surface;

  (b) Porous surface;

  (c) Air;

  (d) Drinking water;

  (e) Ground water;

  (f) Surface water;

(g) Soil; and

(h) Septic system.

(2) Collection of samples shall be performed by department of ecology staff; department of health certified CDL supervisors; or local health officers using:

(a) Standards and protocols to ensure accuracy and the ability to produce similar results with repeated sampling;

(b) Proper swabbing techniques to collect a representative sample of the area being sampled; and

(c) Proper care and prudent action to avoid contamination during sampling.

(3) All samples collected, transported, stored, and analyzed under the provisions of this section must be secured to assure an unbroken chain-of-custody as described in the American Society of Testing Materials Standard D 4840.

WEST VIRGINIA

- NOT FOUND

WISCONSIN

- NOT FOUND

WYOMING

- NOT FOUND

LAST ACTION

Information found in this section outlines the last action that must be take in order for a property to be considered fit for habitation. This last action in many cases is an ultimate review by the appropriate state agency of a post decontamination report and the subsequent issue of some document or official notice that the property has been remediated. In some cases the remediation contractor issues a document evidencing the property's status as fit for habitation. Most states, however, do require some agency oversight and approval of the remediation in order for the property to be inhabited, used, sold or transferred.

LAST ACTION

ALABAMA

- NOT FOUND

ALASKA

- ALASKA STAT. § 46.03.550 (2008): (a) Property for which a notice has been issued under AS 46.03.500 shall be determined by the department to be fit for use if the owner certifies to the department under penalty of unsworn falsification in the second degree that:

  (1) based on sampling and testing procedures established by the department under AS 46.03.520(b) and performed by laboratories that are on the list maintained by the department under AS 46.03.520(c), the limits on substances specified in regulations adopted under AS 46.03.530 are not exceeded on the property;

  (2) if the property was ever sampled and tested under AS 46.03.520 and the test results showed the property to be unfit for use under AS 46.03.530, decontamination procedures were performed in accordance with the guidelines established under AS 46.03.540(b) and the requirements of (1) of this subsection have been met; or

  (3) a court has held that the determination that the property was an illegal drug manufacturing site was not made in compliance with AS 46.03.500(a).

  (b) The department shall maintain a list of properties for which the department has received notice under AS 46.03.500(c). When the department determines under (a) of this section that a property on the list is fit for use, the department shall note on the list maintained on its Internet website under AS 46.03.500(f), and on any other list or database it maintains related to illegal drug manufacturing sites, that the property is fit for use and shall notify the owner of the property that the property is fit for use. The property shall remain on the lists or databases for five years after it is determined that the property is fit for use and shall be removed from the lists or databases within three months after the five-year period has elapsed. On request, the department shall give a copy of the list maintained under this section to any person who requests the list.

ARIZONA

- ARIZ. REV. STAT. ANN. § 12-1000(D) (2008): A drug laboratory site remediation firm that remediates the residually contaminated portion of any real property pursuant to this section shall comply with the requirements established and the best practices and standards for remediation of residual contamination adopted by the state board of technical registration pursuant to title 32, chapter 1. When remediation is complete, the drug laboratory site remediation firm shall remove the posted notice and shall issue a document stating that the residually contaminated portion of the real property has been

remediated. Within twenty-four hours after the remediation is complete, the drug laboratory site remediation firm shall deliver the document or send the document by certified mail to each person and entity listed in subsection A, paragraph 2 of this section and the law enforcement agency that issued the notice under that subsection. After the document has been issued, both of the following apply:

1. The owner, landlord or manager of the real property is not required to comply with subsection F of this section.

2. Any person may use, enter, occupy, rent or sell the real property.

- ARIZ. ADMIN. CODE § R4-30-305(D) (2008): D. 1. A final report shall be:

a. Prepared by the drug laboratory site remediation firm;

b. Submitted to the owner of the remediated property and the county health department of the county in which the property is located; and

c. Retained by the firm for a minimum of three years.

2. The final report shall include the following information and documentation:

a. Complete identifying information of the real property, such as street address, mailing address, owner of record, legal description, county tax or parcel identification number, or vehicle identification number if a mobile home, registration number of the drug laboratory site remediation firm, name and certification number of the on-site supervisor, and name and certification numbers of the on-site workers that performed the remediation services on the residually contaminated portion of the real property;

b. A summary of the remediation services completed on the residually contaminated portion of the real property, and any deviations from the approved work plan;

c. Photographs documenting the remediation services and showing each of the sample locations, and a drawing or sketch of the residually contaminated areas that depict the sample locations;

d. A copy of the sampling and testing results for VOCs and mercury, a copy of any asbestos sampling and testing results, a copy of the laboratory test results on all samples, and a copy of the chain-of-custody protocol documents for all samples from the residually contaminated portion of the real property;

e. A summary of the waste characterization work, any waste sampling and testing results, and transportation and disposal documents, including but not limited to, bills of lading, weight tickets, and manifests for all materials removed from the real property;

f. A summary of the on-site supervisor's observation and testing of the real property for evidence of burn areas, burn or trash pits, debris piles, or stained areas;

g. A copy of any reports provided to the drug laboratory site remediation firm or prepared by the Certified Industrial Hygienist, Certified Safety Professional, an Arizona-registered geologist, and an Arizona-registered engineer; and

h. A statement that the residually contaminated portion of the real property has been remediated in accordance with these standards.

3. Within 24 hours after the final report described in subsection (D)(1) of this Article has been prepared, the drug laboratory site remediation firm shall deliver, or send by certified mail, a copy of the final report to those individuals and entities identified in A.R.S. § 12-100(A)(2), or a separate document stating that the residually contaminated portion of the real property has been remediated pursuant to A.R.S. § 12-1000 (D).

ARKANSAS

- ARK. CODE ANN. § 8-7-1406 (West 2007): (a) After property contaminated through the manufacture of controlled substances is remediated and the property owner receives official notification from the Arkansas Department of Environmental Quality, no person, including the property owner, landlord, and real estate agent, is required to report or otherwise disclose the past contamination.

- Arkansas Department of Environmental Quality, *Clandestine Laboratory Remediation Cleanup Standards*, 23 (2008): Written documentation showing that the cleanup has been completed must be submitted to ADEQ. The final report should summarize the work performed, present data collected during the post cleanup assessment, and be signed by the certified contractor. ADEQ will review the report and determine whether the property is suitable for reoccupancy.

CALIFORNIA

- CAL. HEALTH & SAFETY CODE § 25400.27 (West 2008): (a) If a local health officer determines that property that has been the subject of a PSA report has been remediated in accordance with this chapter, or if the local health officer makes the determination specified in paragraph (2) of subdivision (e) of Section 25400.26, the local health officer shall issue a no further action determination.

(b) Within 10 working days of the date of making the determination or of receiving payment for the amount of the lien recorded on real property pursuant to paragraph (1) of subdivision (a) of Section 25400.22, whichever is later, the local officer shall do all of the following:

(1) If the real property was the source of the contamination, release the real property lien recorded with the county recorder. The release shall specify all of the following:

(A) The name of the agency on whose behalf the lien is imposed.

(B) The recording date of the lien being released.

(C) The legal description of the real property and the assessor's parcel number.

(D) The record owner of the property.

(E) The recording instrument, or book and page, of the lien being released.

(2) If a mobilehome or manufactured home that is property pursuant to paragraph (2) of subdivision (t) of Section 25400.11, was the source of the contamination, release the restraint amended into the permanent record of the Department of Housing and Community Development, if the permanent record was amended previously with a restraint. The release shall specify all of the following:

(A) The name of the agency on whose behalf the restraint was filed.

(B) The date on which the property was determined to be contaminated.

(C) The legal identification number of the unit for which the restraint is being released.

(D) The legal owner, registered owner, and any junior lienholders of the manufactured home or mobilehome.

(3) If a recreational vehicle that is property pursuant to paragraph (2) of subdivision (t) of Section 25400.11, was the source of the contamination, release the vehicle license stop filed with the Department of Motor Vehicles. The release shall specify all of the following:

(A) The name of the agency on whose behalf the vehicle license stop is imposed.

(B) The recording date of the vehicle license stop being released.

(C) The vehicle identification number.

(D) The legal and registered owner of the property.

(4) Send a copy of the release stating that the property was remediated in accordance with this chapter, does not violate the standard for human occupancy established pursuant to this chapter, and is habitable, or was salvaged or destroyed pursuant to subparagraph (B) of paragraph (2) of subdivision (c) of Section 25400.22, to the property owner, owner of the mobilehome park or special occupancy park in which the property is located, to the property owner, local agency responsible for the enforcement of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13), and all recipients pursuant to this section and Section 25400.22.

COLORADO

- 6 COLO. CODE REGS. § 1014-3-8.0, 3-8.26 (2008): 8.0 Reporting. A final report shall be prepared by the consultant to document the decontamination process and demonstrate that the property has been decontaminated to the cleanup levels listed in Section 7.0 of these regulations. The final report shall include, but not be limited to, the following:

  8.1. Property description including physical address, legal description, ownership, number and type of structures present, description of adjacent and/or surrounding properties, and any other observations made.

  8.2. Description of manufacturing methods and chemicals used, based on observations, law enforcement reports and knowledge of manufacturing method.

  8.3. If available, copies of law enforcement reports that provide information regarding the manufacturing method, chemicals present, cooking areas, chemical storage areas, and observed areas of contamination or waste disposal.

  8.4. A description of chemical storage areas, with a figure documenting location(s).

  8.5. A description of waste disposal areas, with a figure documenting location(s).

  8.6. A description of cooking areas, with a figure documenting location(s).

  8.7. A description of areas with signs of contamination such as staining, etching, fire damage, or outdoor areas of dead vegetation, with a figure documenting location(s).

8.8 The results of inspection of plumbing system integrity and identification of sewage disposal mechanism.

8.9. A description of adjacent units and common areas where contamination may have spread or been tracked.

8.10. Identification of common ventilation systems with adjacent units or common areas.

8.11. A description of the sampling procedures used, including sample collection, handling, and QA/QC.

8.12. A description of the analytical methods used and laboratory QA/QC requirements.

8.13. A description of the location and results of initial sampling (if any), including a description of sample locations and a figure with sample locations and identification.

8.14. A description of the health and safety procedures used in accordance with OSHA requirements.

8.15. A description of the decontamination procedures used and a description of each area that was decontaminated.

8.16. A description of the removal procedures used and a description of areas where removal was conducted, and the materials removed.

8.17. A description of the encapsulation procedures used and a description of the areas and/or materials where encapsulation was performed.

8.18. A description of the waste management procedures used, including handling and final disposition of wastes.

8.19. A description of the location and results of post-decontamination samples, including a description of sample locations and a figure with sample locations and identification.

8.20. Photographic documentation of pre- and post-decontamination property conditions, including cooking areas, chemical storage areas, waste disposal areas, areas of obvious contamination, sampling and decontamination procedures, and post-decontamination conditions.

8.21. Consultant statement of qualifications, including professional certification or qualification as an industrial hygienist as defined in section 24-30-1402, C.R.S., and

description of experience in assessing contamination associated with methamphetamine labs.

8.22. Certification of procedures and results, and variations from standard practices.

8.23. A signed certification statement in one of the following forms, as appropriate:

"I do hereby certify that I conducted a preliminary assessment of the subject property in accordance with 6 CCR 1014-3, § 4, and that I conducted post-decontamination clearance sampling in accordance with 6 CCR 1014-3, § 6. I further certify that the property has been decontaminated in accordance with the procedures set forth in 6 CCR 1014-3, § 5, and that the cleanup standards established by 6 CCR 1014-3, § 7 have been met as evidenced by testing I conducted."

"I do hereby certify that I conducted a preliminary assessment of the subject property in accordance with 6 CCR 1014-3, § 4. I further certify that the cleanup standards established by 6 CCR 1014-3, § 7 have been met as evidenced by testing I conducted."

8.24. Signature of the consultant.

8.25. The property owner and consultant shall each retain a copy of the report for a period of seven years.

8.26 To obtain the immunity provided in § 25-18.5-103(2), C.R.S., the owner must provide a copy of the report to the governing body. It is advisable to submit the report by certified mail, return receipt requested, or some other method that provides an acknowledgement of receipt by the governing body.

CONNECTICUT

- NOT FOUND

DELAWARE

- NOT FOUND

FLORIDA

- NOT FOUND

GEORGIA

- NOT FOUND

LAST ACTION

HAWAII

- HAW. CODE R. § 11-452-43 (Weil 2007): The hazard evaluation and emergency response office shall issue a no further action determination, provided that:

  (1) The final report is deemed accurate by the hazard evaluation and emergency response office;

  (2) The hazard evaluation and emergency response office determines that the cleanup effort has decontaminated the property in accordance with the approved work plan and approved decontamination procedures; and

  (3) The hazard evaluation and emergency response office verifies that the cleanup is in compliance with Hawaii law.

  In the event that new information is subsequently discovered that would alter the determination of no further action, the matter shall be reconsidered and may be reassessed at the owner's expense. All costs associated with the reconsideration and reassessment of the decontamination and cleanup of a methamphetamine manufacturing site shall be the responsibility of the owner of the property on which a methamphetamine site is located.

IDAHO

- IDAHO CODE ANN. § 6-2606(1) (2008): Except as otherwise provided in subsection (2) of this section, and pursuant to rules adopted as provided in this chapter, upon notification to a residential property owner by a law enforcement agency that chemicals, equipment, supplies or immediate precursors indicative of a clandestine drug laboratory have been located on the owner's residential property, the residential property owner shall meet the cleanup standards established by the department. The residential property shall remain vacant from the time the residential property owner is notified, in accordance with rules adopted as provided in this chapter, of the clandestine drug laboratory until such time as the residential property owner has received a certificate issued by the department evidencing that the cleanup standards have been met.

- IDAHO ADMIN. CODE r. § 16.02.24.600 (2008): In order for the property to be delisted, the property owner must provide the Department with an original or certified copy of the final report from the qualified industrial hygienist. The final report must include at least the following information:

LAST ACTION

01. Property Description. The property description including physical street address (apartment or motel number, if applicable), city, zip code, legal description, ownership, and number and type of structures present.

02. Documentation of Clearance Sampling Procedures. Documentation of sampling procedures in accordance with the requirements under Section 400 of these rules.

03. Laboratory Results. Analytical results from a laboratory as specified in Section 400 of these rules.

04. Qualifications of the Qualified Industrial Hygienist. Qualified industrial hygienist statement of qualifications, including professional certification or documentation.

05. Signed Certification Statement. A signed certification statement as stating: "I certify that the cleanup standard established by the Idaho Department of Health and Welfare has been met as evidenced by testing I conducted".

06. Demolition Documentation. If the property owner chooses to demolish the property, documentation must be provided to the Department showing that the structure was completely and lawfully demolished and disposed of in compliance with local, state, and federal laws and regulations.

ILLINOIS

- NOT FOUND

INDIANA

- 318 IND. ADMIN. CODE 1-5-9 (2008): (a) When the final decontamination levels listed in Table 1 of section 2 of this rule have been met, the qualified inspector shall certify in writing that decontamination has been completed and all applicable final decontamination levels have been met. The certification must be:

  (1) on the form provided by the commissioner; and

  (2) signed by the qualified inspector.

  (b) Within five (5) days of receiving validated reports and data from the analytical laboratory, the qualified inspector shall provide the following:

  (1) The original certificate of decontamination to the owner of the contaminated property.

  (2) A copy of the certificate of decontamination to all of the following:

(A) The local health department.

(B) The Indiana State Department of Health, Office of Primary Care, 2 North Meridian Street, Section 3A, Indianapolis, IN 46204.

(C) Indiana Department of Environmental Management, Office of Land Quality, Remediation Services Branch, Room 1101, 100 North Senate Avenue, Indianapolis, Indiana 46204-2251.

IOWA

- NOT FOUND

KANSAS

- NOT FOUND

KENTUCKY

- NOT FOUND

LOUISIANA

- NOT FOUND

MAINE

- NOT FOUND

MARYLAND

- NOT FOUND

MASSACHUSETTS

- NOT FOUND

MICHIGAN

- MICH. COMP. LAWS ANN. § 125.485a (3) (West 2008): (3) If the property or dwelling, or both, is determined likely to be contaminated under subsection (2), the enforcing agency shall issue an order requiring the property or dwelling to be vacated until the property owner establishes that the property is decontaminated or the risk of likely contamination ceases to exist. The property owner may establish that the property is decontaminated by submitting a written assessment of the property before decontamination and a written assessment of the property after decontamination, enumerating the steps taken to render the property decontaminated, and a certification that the property has been

decontaminated and that the risk of likely contamination no longer exists to the enforcing agency. The property or dwelling shall remain vacated until the enforcing agency has reviewed and concurred in the certification.

- MICH. COMP. LAWS ANN. § 333.12103 (3) (West 2008):…If the property or dwelling, or both, is determined likely to be contaminated under this subsection, the enforcing agency shall issue an order requiring the property or dwelling to be vacated until the property owner establishes that the property is decontaminated or the risk of likely contamination ceases to exist. The property owner may establish that the property is decontaminated by submitting a written assessment of the property before decontamination and a written assessment of the property after decontamination, enumerating the steps taken to render the property decontaminated, and a certification that the property has been decontaminated and that the risk of likely contamination no longer exists to the enforcing agency. The property or dwelling shall remain vacated until the enforcing agency has reviewed and concurred in the certification…

MINNESOTA

- MINN. STAT. ANN. § 152.0275, Subd. 2 (West 2008): (e) Upon the proper removal and remediation of any property used as a clandestine lab site, the contractor shall verify to the property owner and the applicable authority that issued the order under paragraph (c) that the work was completed according to the Department of Health's clandestine drug labs general cleanup guidelines and best practices. The contractor shall provide the verification to the property owner and the applicable authority within five days from the completion of the remediation. Following this, the applicable authority shall vacate its order.

- Minnesota Department of Health and Minnesota Pollution Control Agency, *Clandestine Drug Lab General Cleanup Guidance*, 28 (Apr. 3, 2007): After completion of interior and exterior assessment and remediation, the contractor must verify to the property owner and the local authority that the work was completed according to MDH guidance. That verification must be provided within five days from the completion of the work.

  The final report must provide documentation of decisions made and work completed, including any receipts, laboratory reports, photographs, site maps and diagrams required by the local authority.

  The work at a site is not considered closed until the local authority has approved the final report.

MISSISSIPPI

LAST ACTION

- NOT FOUND

MISSOURI

- NOT FOUND

MONTANA

- MONT. ADMIN. R. 17.74.506 (2008): (1) For the department to confirm, pursuant to 75-10-1305(4), MCA, that the decontamination standards in 17-74-505 have been met for an inhabitable property where clandestine methamphetamine manufacturing has taken place, and for the department to remove the property from the list of contaminated property maintained pursuant to 75-10-1306, MCA, all sampling, submittal of samples, and work performed to assess the extent of contamination and comply with CML decontamination standards and disposal of contaminated material must be performed by the department or by contractors, supervisors, and workers certified by the department pursuant to this subchapter to perform that work.

  (2) Upon confirmation by the department that an inhabitable property has been properly remediated to the standards provided in 17.74.505, the department shall issue a certificate of fitness to the property owner of record.

  (3) At any reasonable time, upon presentation of credentials, and for the purpose of determining compliance with the provisions of this subchapter, an employee or agent of the department may:

  (a) enter and inspect any place at which a CML decontamination project is being conducted pursuant to this subchapter; or

  (b) enter any place at which records pertinent to a CML decontamination project conducted pursuant to this subchapter are maintained, and examine or copy any such records.

NEBRASKA

- NEB REV. STAT. § 71-2434(2) (2007):…Upon the completion of such rehabilitation, the local public health department shall release the property for human habitation and commercial or other use in a timely manner.

NEVADA

- NOT FOUND

NEW HAMPSHIRE

LAST ACTION

- N.H. REV. STAT. ANN. § 477:4-g (2008): In any purchase and sale agreement, lease agreement, or rental agreement before signing an agreement to sell, transfer, lease, or rent real property for the time period after any conduct prohibited under RSA 318-D has occurred on such property and prior to the determination by the department of environmental services, pursuant to paragraph II, that the property meets remediation cleanup standards:

  (a) The seller, transferor, lessor, or owner shall disclose in writing to the buyer, transferee, lessee, or occupant if, to the seller's, transferor's, lessor's or owner's knowledge, methamphetamine production has occurred on the property.

  (b) If methamphetamine production has occurred on the property, the disclosure shall include a statement to the buyer, transferee, lessee, or occupant informing the buyer, transferee, lessee, or occupant.

  II. The department of environmental services or any licensed environmental or hazardous substances removal specialist shall be responsible for determining that any property on which methamphetamine production has occurred, meets remediation cleanup standards established pursuant to rules adopted by the department under RSA 541-A. Prior to the establishment of rules, the determination shall be based on the best scientific methods available. The determination that the property meets remediation cleanup standards shall be public information available upon request from the department.

NEW JERSEY

- NOT FOUND

NEW MEXICO

- N.M. CODE R. § 20.4.5.12 (Weil 2008): A. The owner of a clandestine drug laboratory is responsible for providing proof to the department that the property has been remediated in compliance with 20.4.5.16 NMAC.

  B. Within seven days of the department determining that a clandestine drug laboratory has been remediated in accordance with this part, or that no remediation is required, the department shall notify the owner of the clandestine drug laboratory that the notice of contamination can be removed from the property.

- N.M. CODE R. § 20.4.5.18 (Weil2008): A. Upon receipt of the remediation report, the department shall review the report to determine if the remediation of the residually contaminated portion of the property was completed pursuant to the requirements in this part within 30 days.

B. The department shall notify the owner or the owner's agent whether or not it approves the remediation report and agrees that the remediation is complete within seven days of completion of the department's review.

C. If the department does not approve the remediation report, it shall inform the owner or the owner's agent and state the reasons for disapproval. The owner shall take the appropriate corrective action within a time period allowed by the department.

NEW YORK

- NOT FOUND

NORTH CAROLINA

- 10A N.C. ADMIN. CODE 41D.0104 (West 2008): The responsible party shall notify the local health department upon completion of the decontamination process. The responsible party shall provide a copy of the pre-decontamination assessment and the decontamination activity documentation to the local health department. The local health department shall review the documentation to determine if the responsible party has documented activities addressing all requirements of the rules. The health department shall immediately notify the responsible party in writing if it determines that the documentation is incomplete. The local health department shall retain this documentation for three years.

NORTH DAKOTA

- NOT FOUND

OHIO

- NOT FOUND

OKLAHOMA

- NOT FOUND

OREGON

- OR. REV. STAT. ANN. § 453.885 (2007): (1) The owner of property determined to be not fit for use under ORS 105.555, 431.175 and 453.855 to 453.912 who desires to have the property certified as fit for use may use the services of a contractor licensed by the Department of Human Services to decontaminate the property or, upon approval by the department, the owner, or an agent of the owner, may perform the decontamination work. The contractor, in coordination with the owner or agent of the owner, shall prepare and submit a written work plan for decontamination to the department. If the work plan is

approved and the decontamination work is completed according to the plan and is properly documented, the department shall certify the property as having been decontaminated in compliance with rules of the department. Upon the completion of the work plan, the department shall require the licensed contractor's affidavit of compliance with the approved work plan.

(2) The property owner shall notify the Director of the Department of Consumer and Business Services of the certification. No person who is not licensed by the Department of Human Services under ORS 105.555, 431.175 and 453.855 to 453.912 shall advertise to undertake or perform the work necessary to decontaminate property determined to be not fit for use under ORS 105.555, 431.175 and 453.855 to 453.912.

(3) Upon receipt of the certificate and a request by the property owner to remove the property from the list, the Director of the Department of Consumer and Business Services shall cause the property to be removed from the list.

- OR. ADMIN. R. § 333-040-0070(1)(b) (2008): (1) A contractor who has been retained to assess a property shall submit all information, proposals and the appropriate fee to the Division on the form supplied by the Division…

  (b) The contractor shall submit the assessment along with all tests, findings and conclusions, the name of the owner, mailing and street address, legal description of the property, clear directions for locating the property, and a completed application for a Certificate of Fitness along with the applicable fee to the Division if no contamination is found. If the findings are acceptable to the Division, the Division shall issue a Certificate of Fitness.

PENNSYLVANIA

- NOT FOUND

RHODE ISLAND

- NOT FOUND

SOUTH CAROLINA

- NOT FOUND

SOUTH DAKOTA

- NOT FOUND

TENNESSEE

LAST ACTION

- TENN. CODE ANN. § 68-212-508 (West 2008): (a) Whenever a certified industrial hygienist or other person or entity named on the commissioner's list, pursuant to § 68-212-502, determines that the property, quarantined pursuant to § 68-212-503, is safe for human use, based upon the standards prescribed pursuant to this part, such person or entity shall issue a Certificate of Fitness.

  (b) The owner or any person having any right, title or interest in the real property, including any lien holders, may file for recording the Certificate of Fitness in the office of county register in the county in which the real property or any portion of the property lies. The certificate shall be acknowledged or proved as provided in title 66, chapter 22. The register shall record such certificate with the record series containing the title deeds, and shall index the certificate with the owner or owners of the real property as the grantee, and the local law enforcement agency that issued the quarantine as grantor. The fee for such filing shall be in accordance with § 8-21-1001.

  (c) A form substantially as follows is sufficient to comply with subsection (a):

  Certificate of Fitness

  Notice is hereby given that the real property, quarantined by (name of local law enforcement agency), pursuant to Tennessee Code Annotated, § 68-212-503, at the location described below, has been tested by a certified industrial hygienist or other person or entity named on the commissioner's list, compiled pursuant to Tennessee Code Annotated, § 68-212-502 and has been remediated by a person or entity authorized by the commissioner pursuant to Tennessee Code Annotated, § 68-212-502 to perform clean-up of property used to manufacture methamphetamine. I, the undersigned, hereby certify that the real property at the location is safe for human use, pursuant to Tennessee Code Annotated, § 68-212-505, and in accordance with the Department of Environment and Conservation's Standards for Testing and Cleaning Clandestine Drug Manufacturing Sites and Cleanup Response and Documentation Guidelines for Properties Quarantined due to Clandestine Drug Laboratory Activities, as currently are in effect.

  Name of Property Owner or Owners:

  _____

  Property Address:

  _____

  _____

  Apartment or Unit Number (if applicable): _____

LAST ACTION

Description of Property Sufficient to Identify: _____
_____
_____
_____

Name of Certified Industrial Hygienist or Other Authorized Person and Company

_____ _____
Signature of Certified Industrial Hygienist Or Other Authorized Person — Date

Notary Acknowledgement or Two Subscribing Witnesses as provided in Tennessee Code Annotated, title 66, chapter 22.

TEXAS

- NOT FOUND

UTAH

- UTAH ADMIN. CODE r. R392-600-7 (2008): A final report shall be:

(a) prepared by the decontamination specialist or owner of record upon completion of the decontamination activities;

(b) submitted to the owner of the decontaminated property and the local health department of the county in which the property is located; and

(c) retained by the decontamination specialist and owner of record for a minimum of three years.

(2) The final report shall include the following information and documentation:

(a) complete identifying information of the property, such as street address, mailing address, owner of record, legal description, county tax or parcel identification number, or vehicle identification number if a mobile home or motorized vehicle;

(b) the name and certification number of the decontamination specialist who performed the decontamination services on the property;

(c) a detailed description of the decontamination activities conducted at the property, including any cleaning performed in areas not highly suggestive of contamination;

(d) a description of all deviations from the approved work plan;

(e) photographs documenting the decontamination services and showing each of the sample locations,

(f) a drawing or sketch of the areas highly suggestive of contamination that depicts the sample locations and areas that were decontaminated;

(g) a description of the sampling procedure used for each sample;

(h) a copy of the testing results from testing all samples, including testing for VOCs, corrosives, and if applicable, lead and mercury, and testing performed by an analytical laboratory;

(i) a written discussion interpreting the test results for all analytical testing on all samples;

(j) a copy of any asbestos sampling and testing results;

(k) a copy of the analytical laboratory test quality assurance data on all samples and a copy of the chain-of-custody protocol documents;

(l) a summary of the waste characterization work, any waste sampling and testing results, and transportation and disposal documents, including bills of lading, weight tickets, and manifests for all materials removed from the property;

(m) a summary of the decontamination specialist or owner of record's observation and testing of the property for evidence of burn areas, burn or trash pits, debris piles, or stained areas;

(n) a written discussion and tables summarizing the confirmation sample results with a comparison to the decontamination standards outlined in this rule; and

(o) an affidavit from the decontamination specialist and owner of record that the property has been decontaminated to the standards outlined in this rule.

(3) All information required to be included in the final report shall be keyed to or contain a reference to the appropriate subsection of this rule.

VERMONT

- NOT FOUND

LAST ACTION

VIRGINIA

- NOT FOUND

WASHINGTON

- WASH. ADMIN. CODE § 246-205-570 (2008): (1) An owner of contaminated property who desires to reduce the contamination shall use the services of an authorized contractor unless otherwise authorized by the local health officer.

  (2) The local health officer shall provide the property owner with a list of authorized contractors upon request.

  (3) When an authorized contractor is required for decontamination, the property owner shall have a written work plan approved by the local health officer before starting decontamination.

  (4) When an authorized contractor is required for decontamination, the contractor shall prepare the work plan in accordance with this chapter and chapter 64.44 RCW. When the local health officer determines the services of an authorized contractor are not necessary, the local health officer shall take appropriate measures to ensure the property is decontaminated consistent with the purposes of chapter 64.44 RCW.

  (5) The property owner or the contractor shall decontaminate the property according to the approved work plan and to meet the decontamination standards described in WAC 246-205-541.

  (6) The property owner shall be responsible for:

  (a) The costs of any property testing which may be required to demonstrate the presence or absence of hazardous chemicals;

  (b) The costs of the property's decontamination and disposal expenses, as well as costs incurred by the local health officer resulting from the enforcement of this chapter;

  (c) Keeping records documenting decontamination procedures and submitting notarized copies of all records to the local health officer; and

  (d) Petitioning the local health officer to review the decontamination records and to declare the property decontaminated.

LAST ACTION

- WASH. ADMIN. CODE § 246-205-580 (2008): Within ten working days of a request for review of decontamination records, the local health officer:

  (1) Shall review the documentation to verify decontamination was performed according to the approved work plan and the applicable decontamination standards in WAC 246-205-541 are met;

  (2) May visit the property site to assess the thoroughness of the decontamination;

  (3) May require the property owner to provide more extensive testing and assessment of the property site by an independent laboratory or firm qualified to perform such testing and assessment.

- WASH. ADMIN. CODE § 246-205-590 (2008): If, after review of the information in WAC 246-205-580, the local health officer determines the property has been decontaminated, the local health officer shall within ten working days:

  (1) Record a release for reuse document in the real property records of the county auditor where the property is located indicating that to the best of his or her knowledge, the property was decontaminated in accordance with this chapter.

  (2) Send a copy of the release to the property owner.

  (3) Send a copy of the release to the state department of health.

  (4) Send a copy of the release to the local building or code enforcement department.

WEST VIRGINIA

- W. VA. CODE R. § 64-92-9 (2008): 9.1. A final remediation report shall be submitted to the Commissioner within ten days of completion of remediation of residential property, and shall, at a minimum, contain the following:

  9.1.a. The name, signature, and license number of person who prepared the report;

  9.1.b. The physical address of the property;

  9.l.c. A summary of any work performed which deviated from or was not discussed in the approved preliminary remediation plan;

  9.1.d. Copies of waste manifests for all materials removed from the property;

9.1.e. Copies of clearance air monitoring sample results from a licensed asbestos clearance air monitor if asbestos containing materials were disturbed;

9.1.f. Submission of analytical sample results, including the following:

9.1.f.1 Approved laboratory sample results for all samples collected, analysis of lab results by an approved laboratory in accordance with subsection 7.3. of this rule;

9.1.f.2. A site drawing showing the location of all samples taken;

9.1.f.3. A photograph of each sample location cross-referenced to the laboratory results as identified on the site drawing; and

9.1.f.4. Chain of custody forms for all samples collected.

9.1.g. A signed statement stating that all remediation work was performed in accordance with the provisions of this rule.

9.2. If the submitted final remediation report is acceptable upon review, the Commissioner shall issue a certificate of remediation completion within forty five days of receipt of the report.

WISCONSIN

- NOT FOUND

WYOMING

- WYO. STAT. ANN. § 35-9-153(h), (j) (2008): (h) The commission shall, by rule and regulation, establish standards for protection of the safety of responding personnel during clandestine laboratory incident responses, standards for determining a site uninhabitable under W.S. 35-9-156(d), standards for determining the extent of contamination and standards for remediation required to render former clandestine laboratory operation sites safe for re-entry, habitation or use with respect to the following:

  (i) Decontamination and sampling standards and best management practices for the inspection and decontamination of property and the disposal of contaminated debris;

  (ii) Appropriate methods for the testing of buildings and interior surfaces, furnishings, soil and septic tanks for contamination;

  (iii) When testing for contamination may be required; and

(iv) When a site may be declared remediated.

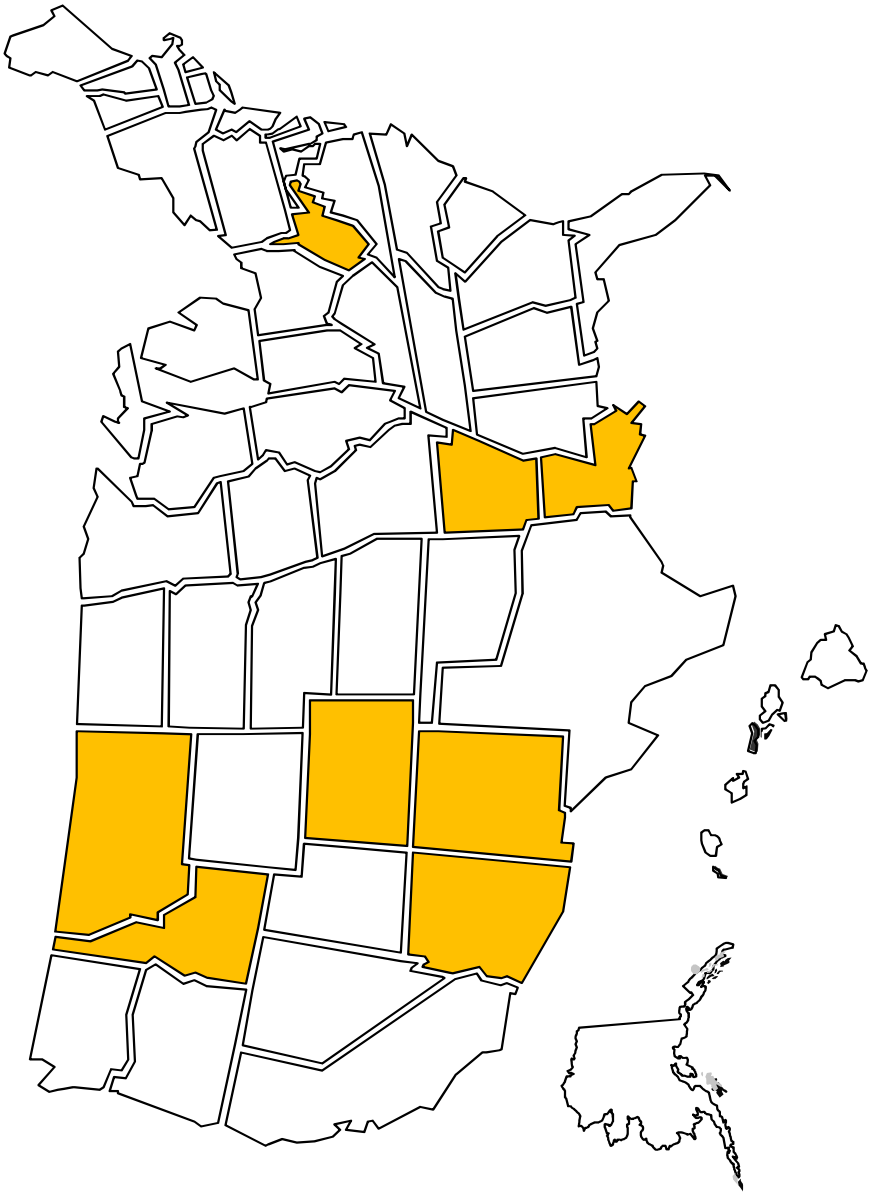
(j) The commission shall, by rule and regulation, establish due process standards for the protection of the property interests of real estate owners, subject to subsection (h) of this section.

PROPERTY OWNER IMMUNITY

The concept of immunity permits an exemption from state penalties, payments or legal requirements. In those states that grant it, immunity is usually afforded to a property owner, representative or agent of the owner, once established remediation standards have been met. This immunity serves to protect the aforementioned parties from situations which include, but are not limited to: (1) civil actions involving health claims brought by future owners, renters of the property or neighbors of the property where the alleged cause of injury or loss is based upon the use of that property as a clandestine drug lab; and (2) actions at law or in equity because the seller, lessor or landlord failed to disclose the fact that the property is the site of a crime involving the manufacture of controlled substances where such fact is not material to the transaction since all materials and substances have been removed from or remediated on the property and the property is safe for habitation. Typically, the immunity is not extended to any person alleged to have created the clandestine drug site.

At a Glance: Common Themes Regarding Properties Where Controlled Substance Laboratories are Found

STATES WITH STATUTES, REGULATIONS OR GUIDELINES THAT PROVIDE IMMUNITY TO OWNERS OF CONTAMINATED PROPERTY



PROPERTY OWNER IMMUNITY

ALABAMA

- NOT FOUND

ALASKA

- NOT FOUND

ARIZONA

- ARIZ. REV. STAT. ANN. § 12-1000(D), (F) (2008): D. A drug laboratory site remediation firm that remediates the residually contaminated portion of any real property pursuant to this section shall comply with the requirements established and the best practices and standards for remediation of residual contamination adopted by the state board of technical registration pursuant to title 32, chapter 1. When remediation is complete, the drug laboratory site remediation firm shall remove the posted notice and shall issue a document stating that the residually contaminated portion of the real property has been remediated. Within twenty-four hours after the remediation is complete, the drug laboratory site remediation firm shall deliver the document or send the document by certified mail to each person and entity listed in subsection A, paragraph 2 of this section and the law enforcement agency that issued the notice under that subsection. After the document has been issued, both of the following apply:

  1. The owner, landlord or manager of the real property is not required to comply with subsection F of this section.

  2. Any person may use, enter, occupy, rent or sell the real property.

  F. The following notice requirements apply until the remediation is complete as provided in subsection D of this section:

  1. Within five days after a buyer signs a contract to purchase the real property, the owner shall notify the buyer in writing that methamphetamine, ecstasy or LSD was manufactured on the real property or that an arrest was made pursuant this section. The buyer shall acknowledge receipt of the notice. A buyer may cancel the real estate purchase contract within five days after receiving the notice. If the owner does not comply with this paragraph, the buyer may cancel the purchase contract.

  2. The landlord shall notify a prospective tenant for a dwelling unit that was the subject of the notice in writing that methamphetamine, ecstasy or LSD was manufactured on the real property or that an arrest was made pursuant to this section. The tenant shall acknowledge receipt of the notice before taking possession of the real property or before signing a rental agreement for the real property. The notice shall be attached to the rental

agreement. If the landlord does not comply with this paragraph, the tenant may void the rental agreement.

3. Before a customer occupies a room that was the subject of the notice, the owner or manager shall notify the customer in writing that methamphetamine, ecstasy or LSD was manufactured in the room or that an arrest was made pursuant to this section. If the owner or manager does not comply with this paragraph, the customer may void the agreement.

4. The owner shall notify a buyer or prospective tenant in writing that methamphetamine, ecstasy or LSD was manufactured in the mobile home or recreational vehicle or that an arrest was made pursuant to this section. The buyer shall acknowledge receipt of the notice before taking possession of the mobile home or recreational vehicle. A buyer may cancel the purchase contract within five days after receiving the notice. The tenant shall acknowledge receipt of the notice before taking possession of the mobile home or recreational vehicle or before signing a rental agreement for the mobile home or recreational vehicle. The notice shall be attached to the rental agreement. If the owner does not comply with this paragraph, the tenant may void the rental agreement.

5. If a mobile home or recreational vehicle in a space rental park contains a clandestine drug laboratory, the landlord, on receipt of a notice pursuant to this section, shall notify the lien holder of record and the owner of record of the unit to remove it from the park within thirty days. If the unit is not removed within thirty days, the landlord may remove or demolish the unit and dispose of it as junk and shall notify the department of transportation of the demolition. A landlord that complies with this subsection is not liable for such action.

ARKANSAS

- ARK. CODE ANN. § 8-7-1406 (West 2007): (a) After property contaminated through the manufacture of controlled substances is remediated and the property owner receives official notification from the Arkansas Department of Environmental Quality, no person, including the property owner, landlord, and real estate agent, is required to report or otherwise disclose the past contamination.

  (b) Unless retention is mandated by federal law, the department shall destroy all copies of information required to be kept under this subchapter that refer to a specific property location once the property is officially removed from the contaminated property list.

CALIFORNIA

- NOT FOUND

COLORADO

PROPERTY OWNER IMMUNITY

- COLO. REV. STAT. ANN. § 25-18.5-103(2) (West 2008): Once a property owner has met the clean-up standards and documentation requirements established by the board, as evidenced by a copy of the results provided to the governing body, or has demolished the property, compliance with subsection (1) of this section shall establish immunity for the property owner from a suit for alleged health-based civil actions brought by any future owner, renter, or other person who occupies such property, or a neighbor of such property, in which the alleged cause of the injury or loss is the existence of the illegal drug laboratory used to manufacture methamphetamine; except that immunity from a civil suit is not established for the person convicted for the production of methamphetamine.

- 6 COLO. CODE REGS. § 1014-3-8.26 (2008): To obtain the immunity provided in § 25-18.5-103(2), C.R.S., the owner must provide a copy of the report to the governing body. It is advisable to submit the report by certified mail, return receipt requested, or some other method that provides an acknowledgement of receipt by the governing body.

CONNECTICUT
- NOT FOUND

DELAWARE
- NOT FOUND

FLORIDA
- NOT FOUND

GEORGIA
- NOT FOUND

HAWAII
- NOT FOUND

IDAHO
- IDAHO CODE ANN. § 6-2607 (2008): Once a residential property meets the cleanup standards established by the department pursuant to rules adopted as provided in this chapter, the residential property owner and any representative or agent of the residential property owner shall be immune from civil actions involving health claims brought by any future owner, renter or other person who occupies the residential property, and by any neighbor of such residential property, where the alleged cause of injury or loss is based upon the use of the residential property for the purposes of a clandestine drug

laboratory, provided however, that such immunity shall not apply to any person alleged to have produced the clandestine drugs.

- IDAHO CODE ANN. § 6-2608 (2008): Any residential property owner who chooses to voluntarily and successfully accomplish the cleanup standards established by the department pursuant to rules adopted as provided in this chapter, whether or not such owner was notified by a law enforcement agency, shall be afforded the protections from civil actions provided in section 6-2607, Idaho Code.

- IDAHO ADMIN. CODE r. § 16.02.24.120.03 (2008): 03. Voluntary Compliance. When a property owner voluntarily reports his property as a clandestine drug laboratory, the property will be placed on the Clandestine Drug Laboratory Property Site List and will be delisted when the requirements of these rules are met. This action will afford the property owner immunity from civil actions as provided in Section 6-2608, Idaho Code.

ILLINOIS
- NOT FOUND

INDIANA
- NOT FOUND

IOWA
- NOT FOUND

KANSAS
- NOT FOUND

KENTUCKY
-

LOUISIANA
- LA. REV. STAT. ANN. §9:3198.1(F) (2008) (as amended by 2008 S.B. 801): F. Notwithstanding any other provision of law to the contrary, once the property has been removed from the list required in Subsection B of this Section, the property owner is not required to report or otherwise disclose the past contamination as required in R.S. 9:3198(A)(2)(b).

MAINE
- NOT FOUND

PROPERTY OWNER IMMUNITY

MARYLAND
- NOT FOUND

MASSACHUSETTS
- NOT FOUND

MICHIGAN
- NOT FOUND

MINNESOTA
- NOT FOUND

MISSISSIPPI
- NOT FOUND

MISSOURI
- NOT FOUND

MONTANA
- MONT. CODE ANN. § 75-10-1305 (2007): (1) An owner of inhabitable property that is known by the owner to have been used as a clandestine methamphetamine drug lab shall notify in writing any subsequent occupant or purchaser of the inhabitable property of that fact if the inhabitable property has not been remediated to the standards established in 75-10-1303 by a contractor who is certified in accordance with 75-10-1304.

  (2) An owner or an owner's agent referred to in subsection (1) may provide notice to a subsequent occupant or purchaser that the owner or the owner's agent has submitted:

  (a) documentation to the department by a contractor who is certified pursuant to 75-10-1304 that the inhabitable property has been remediated to the standards established in 75-10-1303; or

  (b) documentation by a certified contractor that the property meets the decontamination standards without decontamination.

  (3) Notice as required or authorized in this section must occur before agreement to a lease or sale of the inhabitable property.

  (4) <u>If the department has confirmed that the decontamination standard provided for in 75-10-1303 has been met and if notice has been given as provided in subsections (2) and</u>

(3), the owner and the owner's agent are not liable in any action brought by a person who has been given notice that is based on the presence of methamphetamine in an inhabitable property.

(5) The immunity provided for in subsection (4) does not apply to an owner or an owner's agent who caused the methamphetamine contamination.

- MONT. CODE ANN. § 75-10-1306(5) (2007): Notwithstanding any other provision of law, once an inhabitable property has been removed from the list required in subsection (2), a property owner, landlord, or real estate agent is not required to report or otherwise disclose the past contamination.

NEBRASKA
- NOT FOUND

NEVADA
- NOT FOUND

NEW HAMPSHIRE
- NOT FOUND

NEW JERSEY
- NOT FOUND

NEW MEXICO
- N.M. CODE R. § 20.4.5.15(E) (Weil 2008): E. After the department has approved the remediation and vacated the notice of contamination, the owner or owner's agent is not required to comply with 20.4.5.13 NMAC and may remove the notice of contamination and allow any person to enter, use, occupy, rent, or sell the property.

NEW YORK
- NOT FOUND

NORTH CAROLINA
- NOT FOUND

NORTH DAKOTA
- NOT FOUND

OHIO

PROPERTY OWNER IMMUNITY

- NOT FOUND

OKLAHOMA
- NOT FOUND

OREGON
- NOT FOUND

PENNSYLVANIA
- NOT FOUND

RHODE ISLAND
- NOT FOUND

SOUTH CAROLINA
- NOT FOUND

SOUTH DAKOTA
- NOT FOUND

TENNESSEE
- NOT FOUND

TEXAS
- NOT FOUND

UTAH
- NOT FOUND

VERMONT
- NOT FOUND

VIRGINIA
- NOT FOUND

WASHINGTON
- NOT FOUND

WEST VIRGINIA

PROPERTY OWNER IMMUNITY

- W. VA. CODE ANN. 60A-11-5 (West 2008): (a) Upon notification to the residential property owner by a law-enforcement agency that chemicals, equipment, supplies or precursors indicative of a clandestine drug laboratory have been located on the residential property owner's property, the residential property owner shall be responsible for actions necessary to meet the remediation standards established by the legislative rule authorized by this article. The residential property owner is responsible for actions to ensure the residential property shall remain unoccupied from the time the residential property owner is notified of the clandestine drug laboratory until such time as the department certifies that the completed remediation meets the numeric decontamination levels set forth in the legislative rule authorized in this article. The department shall have forty-five days from receipt of all necessary paperwork and documentation to complete remediation certification: *Provided,* That a residential property owner may demolish the residential property as an alternative to meeting the remediation standards established by the department.

  (b) Once the remediation has been certified complete by the department, the residential property owner and any representative or agent of a residential property owner who neither knew or should have known of the property's illegal use shall be immune from civil liability for action brought for injuries or loss based upon the prior use of the residential property as a clandestine drug laboratory by future owners, renters, lessees or any other person who occupies the residential property.

  (c) Any residential property owner who neither knew or should have known of the property's illegal use who chooses to voluntarily and successfully complete the remediation prior to notification by a law-enforcement agency shall have the same immunity from liability as set forth in subsection (b) of this section if the remediation meets the certification standards set forth in legislative rules authorized by this article.

WISCONSIN

- NOT FOUND

WYOMING

- NOT FOUND

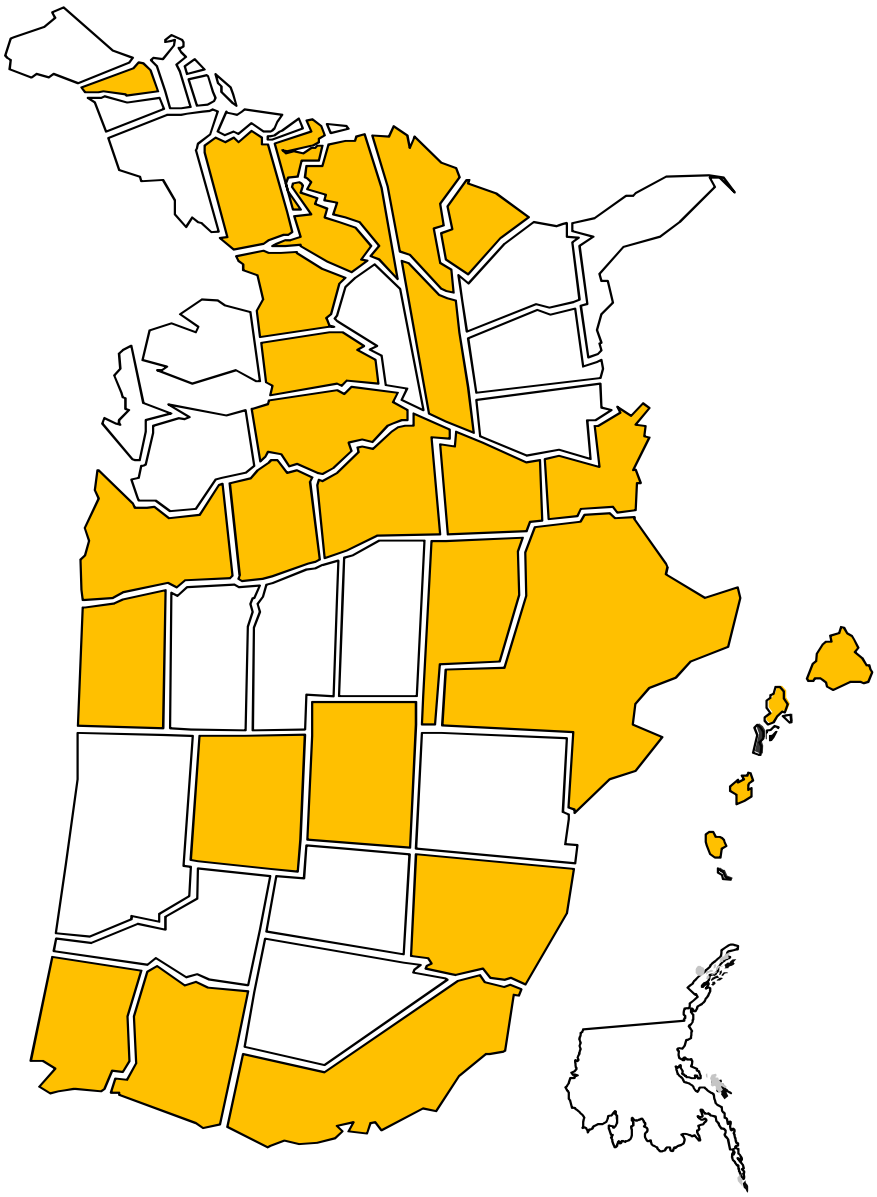
LIABILITY OF PERSON RESPONSIBLE FOR LAB

Many states' statutes have provisions that hold a person who is responsible for a clandestine drug lab financially responsible for the damage that is caused as a result of the existence of the lab. Responsible persons, for the purpose of the information found in this section, include: 1) individuals who are required to pay restitution as part of a conviction for committing any number of offenses, including the manufacture, attempt to manufacture, intent to manufacture, sale, possession for sale, possession, transportation, and trafficking of methamphetamine; and 2) individuals who are responsible for or have control over an illegal drug manufacturing lab, but are not convicted of committing a related crime.

State courts may require a responsible person, where the response to an illegal lab involved an emergency response or hazardous substance cleanup to pay restitution to: (1) all public or private entities that participated or responded to the cleanup, (2) a property owner who incurred removal or remediation costs as a result of the crime, and (3) any private property owner, either real or personal, whose property is destroyed or suffers damage as a result of the offense (this may include the loss of any revenue that occurred because the property was uninhabitable or a crime scene). Provisions that require a person responsible for an illegal lab to repay public entities, first responders, and property owners are similar, however they don't require a criminal conviction.

At a Glance: Common Themes Regarding Properties Where Controlled Substance Laboratories are Found

STATES WITH STATUTES, REGULATIONS OR GUIDELINES THAT HOLD LIABLE A PERSON RESPONSIBLE FOR A CLANDESTINE LAB



LIABILITY OF PERSON RESPONSIBLE FOR LAB

ALABAMA

- NOT FOUND

ALASKA

- NOT FOUND

ARIZONA

- ARIZ. REV. STAT. ANN. § 12-1000(I) (2008): A person who operates a clandestine drug laboratory and who is not the owner of the real property shall pay restitution to the owner of the real property for all costs that the owner incurred to remediate the property.

ARKANSAS

- ARK. CODE ANN § 5-64-401(h) (West 2008): (h) CLEAN UP LIABILITY -- RESTITUTION.

  (1) A person who violates this section is liable for the cost of the cleanup of the site where the person:

  (A) Manufactured a controlled substance; or

  (B) Possessed drug paraphernalia or a chemical for the purpose of manufacturing a controlled substance.

  (2) The person shall make restitution to the state or local agency responsible for the cleanup for the cost of the cleanup under § 5-4-205.

CALIFORNIA

- CAL. HEALTH & SAFETY CODE § 11374.5(b)(1)-(2) (West 2008): (b)(1) In addition to any other penalty or liability imposed by law, a person who is convicted of violating subdivision (a), or any person who is convicted of the manufacture, sale, possession for sale, possession, transportation, or disposal of any hazardous substance that is a controlled substance or a chemical used in, or is a byproduct of, the manufacture of a controlled substance in violation of any law, shall pay a penalty equal to the amount of the actual cost incurred by the state or local agency to remove and dispose of the hazardous substance that is a controlled substance or a chemical used in, or is a byproduct of, the manufacture of a controlled substance and to take removal action with respect to any release of the hazardous substance or any items or materials contaminated by that release, if the state or local agency requests the prosecuting authority to seek recovery of that cost. The court shall transmit all penalties collected pursuant to this subdivision to the county treasurer of the county in which the court is located for deposit in a special

account in the county treasury. The county treasurer shall pay that money at least once a month to the agency that requested recovery of the cost for the removal action. The county may retain up to 5 percent of any assessed penalty for appropriate and reasonable administrative costs attributable to the collection and disbursement of the penalty.

(2) If the Department of Toxic Substances Control has requested recovery of the cost of removing the hazardous substance that is a controlled substance or a chemical used in, or is a byproduct of, the manufacture of a controlled substance or taking removal action with respect to any release of the hazardous substance, the county treasurer shall transfer funds in the amount of the penalty collected to the Treasurer, who shall deposit the money in the Illegal Drug Lab Cleanup Account, which is hereby created in the General Fund in the State Treasury. The Department of Toxic Substances Control may expend the money in the Illegal Drug Lab Cleanup Account, upon appropriation by the Legislature, to cover the cost of taking removal actions pursuant to Section 25354.5.

COLORADO

- COLO. REV. STAT. ANN. § 18-1.3-602(3) (West 2008): (3)(a) "Restitution" means any pecuniary loss suffered by a victim and includes but is not limited to all out-of-pocket expenses, interest, loss of use of money, anticipated future expenses, rewards paid by victims, money advanced by law enforcement agencies, money advanced by a governmental agency for a service animal, adjustment expenses, and other losses or injuries proximately caused by an offender's conduct and that can be reasonably calculated and recompensed in money. "Restitution" does not include damages for physical or mental pain and suffering, loss of consortium, loss of enjoyment of life, loss of future earnings, or punitive damages.

  (b) "Restitution" may also include extraordinary direct public and all private investigative costs.

  (c)(I) "Restitution" shall also include all costs incurred by a government agency or private entity to:

  (A) Remove, clean up, or remediate a place used to manufacture or attempt to manufacture a controlled substance or which contains a controlled substance or which contains chemicals, supplies, or equipment used or intended to be used in the manufacturing of a controlled substance;

  (B) Store, preserve, or test evidence of a controlled substance violation; or

(C) Sell and provide for the care of and provision for an animal disposed of under the animal cruelty laws in accordance with part 2 of article 9 of this title or article 42 of title 35, C.R.S.

(II) Costs under this paragraph (c) shall include, but are not limited to, overtime wages for peace officers or other government employees, the operating expenses for any equipment utilized, and the costs of any property designed for one-time use, such as protective clothing.

CONNECTICUT

- NOT FOUND

DELAWARE

- NOT FOUND

FLORIDA

- NOT FOUND

GEORGIA

- NOT FOUND

HAWAII

- HAW. REV. STAT. § 712-1240.9 (2007): When sentencing a defendant convicted of methamphetamine trafficking pursuant to section 712-1240.7 or 712-1240.8, the court may order restitution or reimbursement to the State or appropriate county government for the cost incurred for any cleanup associated with the manufacture or distribution of methamphetamine and to any other person injured as a result of the manufacture or distribution of methamphetamine.

IDAHO

- NOT FOUND

ILLINOIS

- 720 ILL. COMP. STAT. ANN. 646/90 (West 2008): (a) If a person commits a violation of this Act in a manner that requires an emergency response, the person shall be required to make restitution to all public entities involved in the emergency response, to cover the reasonable cost of their participation in the emergency response, including but not limited to regular and overtime costs incurred by local law enforcement agencies and private contractors paid by the public agencies in securing the site. The convicted person shall make this restitution in addition to any other fine or penalty required by law.

(b) Any restitution payments made under this Section shall be disbursed equitably by the circuit clerk in the following order:

(1) first, to the local agencies involved in the emergency response;

(2) second, to the State agencies involved in the emergency response; and

(3) third, to the federal agencies involved in the emergency response.

INDIANA

- IND. CODE ANN. § 35-48-4-17 (West 2008): (a) In addition to any other penalty imposed for conviction of an offense under this chapter involving the manufacture or intent to manufacture methamphetamine, a court shall order restitution under IC 35-50-5-3 to cover the costs, if necessary, of an environmental cleanup incurred by a law enforcement agency or other person as a result of the offense.

  (b) The amount collected under subsection (a) shall be used to reimburse the law enforcement agency that assumed the costs associated with the environmental cleanup described in subsection (a).

IOWA

- IOWA CODE ANN. § 124C.3 (West 2008): A person having control over a clandestine laboratory site shall be strictly liable to the state for all of the following:

  1. The reasonable costs incurred by the state as a result of cleanup of the site.

  2. The reasonable costs incurred by the state to evacuate people from the area threatened by the clandestine laboratory site.

  3. The reasonable damages to the state for the injury to, destruction of, or loss of natural resources resulting from the clandestine laboratory site, including the costs of assessing the injury, destruction, or loss.

KANSAS

- NOT FOUND

KENTUCKY

- NOT FOUND

LIABILITY OF PERSON RESPONSIBLE FOR LAB

LOUISIANA

- LA. REV. STAT. ANN. §40:983 (2008): A. Creation or operation of a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance is any of the following:

  (1) The purchase, sale, distribution, or possession of any material, compound, mixture, preparation, supplies, equipment, or structure with the intent that it be used for the unlawful manufacture of a controlled dangerous substance.

  (2) The transportation or arranging for the transportation of any material, compound, mixture, preparation, supplies, or equipment with the intent that such material, compound, mixture, preparation, supplies, or equipment be used for the unlawful manufacture of a controlled dangerous substance.

  (3) The distribution of any material, compound, mixture, preparation, equipment, supplies, or products, which material, compound, mixture, preparation, equipment, supplies, or products have been used in, or produced by, the unlawful manufacture of a controlled dangerous substance.

  (4) The disposal of any material, compound, mixture, preparation, equipment, supplies, products, or byproducts, which material, compound, mixture, preparation, equipment, supplies, products, or byproducts have been used in, or produced by, the unlawful manufacture of a controlled dangerous substance.

  B. It shall be unlawful for any person to knowingly or intentionally create or operate a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance.

  C. Whoever commits the crime of creation or operation of a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance shall be sentenced to imprisonment at hard labor for not less than five years nor more than fifteen years; and may, in addition, be sentenced to pay a fine of not more than twenty-five thousand dollars.

  D. In addition to the penalty provided in Subsection C of this Section, a person convicted under the provisions of this Section may be ordered to make restitution for the actual governmental cost incurred in the cleanup of any hazardous waste resulting from the operation of a laboratory for the unlawful manufacture of a controlled dangerous substance. The court may order that such amount be paid directly to the governmental agency or agencies that actually incurred the cleanup expense.

MAINE

LIABILITY OF PERSON RESPONSIBLE FOR LAB

- NOT FOUND

MARYLAND

- MD. CODE ANN., CRIM. LAW § 5-610 (West 2008): (a) In addition to any other penalty provided by law, a person who is convicted or found to have committed a delinquent act under § 5-602, § 5-603, § 5-604, § 5-605, or § 5-606 of this subtitle may be ordered by the court to pay restitution for actual costs reasonably incurred in cleaning up or remediating laboratories or other facilities operated for the illegal manufacture of a controlled dangerous substance.

  (b) If the person convicted or found to have committed a delinquent act is a minor, the court may order the minor, the minor's parent, or both to pay the restitution described in subsection (a) of this section.

MASSACHUSETTS

- NOT FOUND

MICHIGAN

- NOT FOUND

MINNESOTA

- MINN. STAT. ANN. § 152.0275, Subd. 1(b)-(c) (West 2008): A court may require a person convicted of manufacturing or attempting to manufacture a controlled substance or of an illegal activity involving a precursor substance, where the response to the crime involved an emergency response, to pay restitution to all public entities that participated in the response. The restitution ordered may cover the reasonable costs of their participation in the response.

  (c) In addition to the restitution authorized in paragraph (b), a court may require a person convicted of manufacturing or attempting to manufacture a controlled substance or of illegal activity involving a precursor substance to pay restitution to a property owner who incurred removal or remediation costs because of the crime.

MISSISSIPPI

- NOT FOUND

MISSOURI

- MO. ANN. STAT. § 640.040 (West 2008): 1. The department of natural resources may provide the resources and personnel to assist in the cleanup and disposal of the hazardous

substances including, but not limited to chemicals intended for use in or resulting from the manufacture or production of controlled substances.

2. The department of natural resources may recover the costs of such cleanup and disposal from the parties responsible for the manufacture or production of controlled substances.

3. The department of natural resources may adopt such rules as are necessary for the implementation and operation of this section.

4. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

5. There is hereby created in the state treasury the "Controlled Substances Cleanup Fund", which shall contain any funds designated for controlled substances cleanup, including, but not limited to, funds derived from private gifts and grants as well as federal and state grants, payments and appropriations. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the fund shall not lapse. Interest received on such deposits shall be credited to the controlled substances cleanup fund.

MONTANA

- NOT FOUND

NEBRASKA

- NOT FOUND

NEVADA

- NOT FOUND

NEW HAMPSHIRE

- N.H. REV. STAT. ANN. §§ 318-D:2.III, IV (2008): III. A court may require a person convicted of manufacturing or attempting to manufacture methamphetamine, where the response to the crime involved an emergency response or a hazardous substance cleanup operation, to pay restitution to all public entities, or private entities under contract to a public entity, that participated in the response or the cleanup. The restitution ordered shall cover the reasonable costs of the entities' participation in the response and the reasonable costs of the site cleanup.

LIABILITY OF PERSON RESPONSIBLE FOR LAB

IV. In addition to the restitution authorized in paragraph III, a court may require a person convicted of manufacturing or attempting to manufacture methamphetamine to pay restitution to a property owner who incurred removal or remediation costs as a result of the crime.

NEW JERSEY

- NOT FOUND

NEW MEXICO

- NOT FOUND

NEW YORK

- NOT FOUND

NORTH CAROLINA

- N.C. GEN. STAT. § 90-95.3 (West 2008): (a) When any person is convicted of an offense under this Article, the court may order him to make restitution to any law-enforcement agency for reasonable expenditures made in purchasing controlled substances from him or his agent as part of an investigation leading to his conviction.

  (b) Repealed by S.L. 2002-126, § 29A.8(b), eff. Oct. 1, 2002.

  (c) When any person is convicted of an offense under this Article involving the manufacture of controlled substances, the court must order the person to make restitution for the actual cost of cleanup to the law enforcement agency that cleaned up any clandestine laboratory used to manufacture the controlled substances, including personnel overtime, equipment, and supplies.

NORTH DAKOTA

- N.D. CENT. CODE § 12.1-32-08.1 (2007): Before imposing restitution or reparation as a sentence or condition of probation, the court shall hold a hearing on the matter with notice to the prosecuting attorney and to the defendant as to the nature and amount of restitution. The court, when sentencing a person adjudged guilty of criminal activities that have resulted in pecuniary damages, in addition to any other sentence the court may impose, shall order that the defendant make restitution to the victim or other recipient as determined by the court, unless the court states on the record, based upon the criteria in this subsection, the reason it does not order restitution or orders only partial restitution. Restitution must include payment to the owner of real property that is contaminated by the defendant in the manufacturing of methamphetamine for the cost of removing the contamination and returning the property to the property's condition before contamination

and to any other person that has incurred costs in decontaminating the property. In determining whether to order restitution, the court shall take into account:

a. The reasonable damages sustained by the victim or victims of the criminal offense, which damages are limited to those directly related to the criminal offense and expenses actually incurred as a direct result of the defendant's criminal action. This can include an amount equal to the cost of necessary and related professional services and devices relating to physical, psychiatric, and psychological care. The defendant may be required as part of the sentence imposed by the court to pay the prescribed treatment costs for a victim of a sexual offense as defined in chapters 12.1-20 and 12.1-27.2.

b. The ability of the defendant to restore the fruits of the criminal action or to pay monetary reparations, or to otherwise take action to restore the victim's property.

c. The likelihood that attaching a condition relating to restitution or reparation will serve a valid rehabilitational purpose in the case of the particular offender considered.

The court shall fix the amount of restitution or reparation, which may not exceed an amount the defendant can or will be able to pay, and shall fix the manner of performance of any condition or conditions of probation established pursuant to this subsection. The court shall order restitution be paid to the division of adult services for any benefits the division has paid or may pay under chapter 54-23.4 unless the court, on the record, directs otherwise. Any payments made pursuant to the order must be deducted from damages awarded in a civil action arising from the same incident. An order that a defendant make restitution or reparation as a sentence or condition of probation may, unless the court directs otherwise, be filed, transcribed, and enforced by the person entitled to the restitution or reparation or by the division of adult services in the same manner as civil judgments rendered by the courts of this state may be enforced.

OHIO

- OHIO REV. CODE ANN. § 3745.13 (West 2008): (A) When emergency action is required to protect the public health or safety or the environment, any person responsible for causing or allowing an unauthorized spill, release, or discharge of material into or upon the environment or responsible for the operation of an illegal methamphetamine manufacturing laboratory that has caused contamination of the environment is liable to the municipal corporation, county, township, countywide emergency management agency established under section 5502.26 of the Revised Code, regional authority for emergency management established under section 5507.27 of the Revised Code, or emergency management program established by a political subdivision under section 5502.271 of the Revised Code, having territorial jurisdiction, or responsibility for emergency management activities in the location of the spill, release, discharge, or contamination,

for the necessary and reasonable, additional or extraordinary costs it incurs in investigating, mitigating, minimizing, removing, or abating the spill, release, discharge, or contamination, in the course of its emergency action, but, to the extent criteria and methods for response actions prescribed under 40 C.F.R. 300, as amended, may be applied to the type of material involved and the conditions of the spill, release, discharge, or contamination, that person is liable for those costs only if the political subdivision, countywide agency, or regional authority employed those criteria and methods in its emergency action.

The officers of the municipal corporation, county, township, countywide emergency management agency, or regional authority for emergency management performing the emergency action shall keep a detailed record of its costs for investigating, mitigating, minimizing, removing, or abating the unauthorized spill, release, discharge, or contamination; promptly after the completion of those measures, shall certify those costs to the city director of law or village solicitor, as appropriate, of the municipal corporation, the prosecuting attorney of the county in the case of a county, township, or countywide emergency management agency, or the legal counsel retained thereby in the case of a regional authority for emergency management; and may request that the legal officer or counsel bring a civil action for recovery of costs against the person responsible for the unauthorized spill, release, or discharge or responsible for the operation of the illegal methamphetamine manufacturing laboratory that caused contamination of the environment. If the officers request that the legal officer or counsel bring such a civil action regarding emergency action taken in relation to the operation of an illegal methamphetamine manufacturing laboratory that has caused contamination of the environment, the legal officer or counsel also may pursue a forfeiture proceeding against the responsible person under sections 2923.31 to 2923.36, 2923.44 to 2923.47, sections 2925.41 to 2925.45, or sections 2933.42 to 2933.43 of the Revised Code, or in any other manner authorized by law.

The legal officer or counsel shall submit a written, itemized claim for the total certified costs incurred by the municipal corporation, county, township, countywide agency, or regional authority for the emergency action to the responsible party and a written demand that those costs be paid to the political subdivision, countywide agency, or regional authority. Not less than thirty days before bringing a civil action for recovery of those costs, the legal officer or counsel shall mail written notice to the responsible party informing the responsible party that, unless the total certified costs are paid to the political subdivision, countywide agency, or regional authority within thirty days after the date of mailing of the notice, the legal officer or counsel will bring a civil action for that amount. Except for emergency action taken in relation to the operation of an illegal methamphetamine manufacturing laboratory that has caused contamination of the environment, in making a determination of an award for reimbursement, the responsible

party's status as a taxpayer to the governmental entity shall be taken into consideration. Nothing in this section prevents a political subdivision, countywide emergency management agency, or regional authority for emergency management from entering into a settlement of a claim against a responsible party that compromises the amount of the claim. Moneys recovered as described in this section shall be credited to the appropriate funds of the political subdivision, countywide agency, or regional authority from which moneys were expended in performing the emergency action.

(B) As used in this section:

(1) "Methamphetamine" means methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer, or salt of an isomer of methamphetamine.

(2) "Illegal methamphetamine manufacturing laboratory" means any laboratory or other premises that is used for the manufacture or production of methamphetamine in violation of section 2925.04 of the Revised Code, whether or not there has been a prior conviction of that violation.

OKLAHOMA

- OKLA. STAT. tit. 22, § 991a(A)(1)(i), (A)(5) (2008): A. Except as otherwise provided in the Elderly and Incapacitated Victim's Protection Program, when a defendant is convicted of a crime and no death sentence is imposed, the court shall either:

  1. Suspend the execution of sentence in whole or in part, with or without probation. The court, in addition, may order the convicted defendant at the time of sentencing or at any time during the suspended sentence to do one or more of the following:

  i. to reimburse the Oklahoma State Bureau of Investigation and any authorized law enforcement agency for all costs incurred by that agency for cleaning up an illegal drug laboratory site for which the defendant pleaded guilty, nolo contendere or was convicted. The court clerk shall collect the amount and may retain five percent (5%) of such monies to be deposited in the Court Clerk Revolving Fund to cover administrative costs and shall remit the remainder to the Oklahoma State Bureau of Investigation to be deposited in the OSBI Revolving Fund established by Section 150.19a of Title 74 of the Oklahoma Statutes or to the general fund wherein the other law enforcement agency is located,

  However, any such order for restitution, community service, payment to a certified local crimestoppers program, payment to the Oklahoma Reward System, or confinement in the county jail, or a combination thereof, shall be made in conjunction with probation and shall be made a condition of the suspended sentence;

5. Order the defendant to reimburse the Oklahoma State Bureau of Investigation for all costs incurred by that agency for cleaning up an illegal drug laboratory site for which the defendant pleaded guilty, nolo contendere or was convicted. The court clerk shall collect the amount and may retain five percent (5%) of such monies to be deposited in the Court Clerk Revolving Fund to cover administrative costs and shall remit the remainder to the Oklahoma State Bureau of Investigation to be deposited in the OSBI Revolving Fund established by Section 150.19a of Title 74 of the Oklahoma Statutes;

- OKLA. STAT. tit. 63, § 2-333 (2008) (as amended by 2008 H.B. 2821): A. It shall be unlawful for any person to knowingly sell, transfer, distribute, or dispense any product containing ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers if the person knows that the purchaser will use the product as a precursor to manufacture methamphetamine or another controlled illegal substance or if the person sells, transfers, distributes or dispenses the product with reckless disregard as to how the product will be used.

  B. A violation of this section shall be a felony punishable by imprisonment in the State Penitentiary for a term of not more than ten (10) years.

  C. Any person who sells, transfers, distributes, dispenses, or in any manner furnishes any product containing pseudoephedrine or phenylpropanolamine, or their salts, isomers, or salts of isomers in a negligent manner, with knowledge or reason to know that the product will be used as a precursor to manufacture methamphetamine or any other illegal controlled substance, or with reckless disregard as to how the product will be used, shall be liable for all damages, whether directly or indirectly caused by the sale, transfer, distribution, dispensation, or furnishing.

  1. Such damages may include, but are not limited to, any and all costs of detecting, investigating, and cleaning up or remediating clandestine or other unlawfully operated or maintained laboratories where controlled dangerous substances are manufactured, any and all costs of prosecuting criminal cases arising from such manufacture, and any and all consequential and punitive damages otherwise allowed by law.

  2. A civil action to recover damages against persons, corporations or other entities violating this subsection may be brought only by the Attorney General, the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or by any district attorney in whose jurisdiction such person may be shown to have committed such violation. Any funds recovered from such an action shall be used for payment or reimbursement of costs arising from investigating or prosecuting criminal or civil cases involving the manufacture of controlled dangerous substances, for drug education

programs, or for payment or reimbursement of remediating contaminated methamphetamine laboratory sites.

D. Violation of subsection A or C of this section shall be considered to affect at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal and is subject to the provisions of Section 2 of Title 50 of the Oklahoma Statutes and Section 1397 of Title 12 of the Oklahoma Statutes.

OREGON

- OR. REV. STAT. ANN. § 475.435(6) (2008): (6) If any person who is liable under ORS 475.455 fails without sufficient cause to conduct a cleanup action as required by an order of the director, the person shall be liable to the Department of Environmental Quality for the state's cleanup costs and for punitive damages not to exceed three times the amount of the state's cleanup costs.

- OR. REV. STAT. ANN. § 475.455 (2008): (1) The following persons shall be strictly liable for those cleanup costs incurred by the state or any other person that are attributable to or associated with an alleged illegal drug manufacturing site and for damages for injury to or destruction of any natural resources caused by chemicals at the site:

  (a) Any owner or operator at or during the time of the acts or omissions that resulted in a site being created or damage to natural resources.

  (b) Any owner or operator who became the owner or operator after the time of the acts or omissions that resulted in a site being created or damages, and who knew or reasonably should have known of the site or damages when the person first became the owner or operator.

  (c) Any owner or operator who obtained actual knowledge of the site or damages during the time the person was the owner or operator of the site and then subsequently transferred ownership or operation of the site to another person without disclosing such knowledge.

  (d) Any person who, by any acts or omissions, caused, contributed to or exacerbated the site or damage, unless the acts or omissions were in material compliance with applicable laws, standards, regulations, licenses or permits.

  (e) Any person who unlawfully hinders or delays entry to, investigation of or cleanup action at a site.

LIABILITY OF PERSON RESPONSIBLE FOR LAB

(2) Except as provided in subsection (1)(b) to (e) of this section and subsection (4) of this section, the following persons shall not be liable for cleanup costs incurred by the state or any other person that are attributable to or associated with a site, or for damages for injury to or destruction of any natural resources caused by chemicals at the site:

(a) Any owner or operator who became the owner or operator after the time of the acts or omissions that resulted in the site being created or damages, and who did not know and reasonably should not have known of the damages when the person first became the owner or operator.

(b) Any owner or operator of property that was contaminated by the migration of chemicals from real property not owned or operated by the person.

(c) Any owner or operator at or during the time of the acts or omissions that resulted in the site or damages, if the site or damage at the site was caused solely by one or a combination of the following:

(A) An act of God. "Act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(B) An act of war.

(C) Acts or omissions of a third party, other than an employee or agent of the person asserting this defense, or other than a person whose acts or omissions occur in connection with a contractual relationship, existing directly or indirectly, with the person asserting this defense. As used in this subparagraph, "contractual relationship" includes but is not limited to land contracts, deeds or other instruments transferring title or possession.

(3) Except as provided in subsection (1)(c) to (e) of this section or subsection (4) of this section, the following persons shall not be liable for cleanup costs incurred by the state or any other person that are attributable to or associated with an alleged illegal drug manufacturing site, or for damages for injury to or destruction of any natural resources caused by chemicals at the site:

(a) A unit of state or local government that acquired ownership or control of a site in the following ways:

(A) Involuntarily by virtue of its function as sovereign, including but not limited to escheat, bankruptcy, tax delinquency or abandonment; or

(B) Through the exercise of eminent domain authority by purchase or condemnation.

(b) A person who acquired a site by inheritance or bequest.

(4) Notwithstanding the exclusions from liability provided for specified persons in subsections (2) and (3) of this section, such persons shall be liable for cleanup costs incurred by the state or any other person that are attributable to or associated with a site, and for damages for injury to or destruction of any natural resources caused by chemicals at a site, to the extent that the person's acts or omissions contribute to such costs or damages, if the person:

(a) Obtained actual knowledge of the chemicals at a site or damages and then failed to promptly notify the Department of Environmental Quality and exercise due care with respect to the chemicals concerned, taking into consideration the characteristics of the chemicals in light of all relevant facts and circumstances; or

(b) Failed to take reasonable precautions against the reasonably foreseeable acts or omissions of a third party and the reasonably foreseeable consequences of such acts or omissions.

(5)(a) No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from any person who may be liable under this section, to any other person, the liability imposed under this section. Nothing in this section shall bar any agreement to insure, hold harmless or indemnify a party to such agreement for any liability under this section.

(b) A person who is liable under this section shall not be barred from seeking contribution from any other person for liability under this section.

(c) Nothing in ORS 475.415 to 475.455, 475.475 and 475.485 shall bar a cause of action that a person liable under this section or a guarantor has or would have by reason of subrogation or otherwise against any person.

(d) Nothing in this section shall restrict any right that the state or any person might have under federal statute, common law or other state statute to recover cleanup costs or to seek any other relief related to the cleanup of an alleged illegal drug manufacturing site.

(6) To establish, for purposes of subsection (1)(b) of this section or subsection (2)(a) of this section, that the person did or did not have reason to know, the person must have undertaken, at the time of acquisition, all appropriate inquiry into the previous ownership

and uses of the property consistent with good commercial or customary practice in an effort to minimize liability.

(7)(a) Except as provided in paragraph (b) of this subsection, no person shall be liable under ORS 475.415 to 475.455, 475.475 and 475.485 for costs or damages as a result of actions taken or omitted in the course of rendering care, assistance or advice in accordance with rules adopted by the Environmental Quality Commission or at the direction of the department or its authorized representative, with respect to an incident creating a danger to public health, safety, welfare or the environment as a result of any cleanup of a site. This paragraph shall not preclude liability for costs or damages as the result of negligence on the part of such person.

(b) No state or local government shall be liable under this section for costs or damages as a result of actions taken in response to an emergency created by the chemicals at or generated by or from a site owned by another person. This paragraph shall not preclude liability for costs or damages as a result of gross negligence or intentional misconduct by the state or local government. For the purpose of this paragraph, reckless, willful or wanton misconduct shall constitute gross negligence.

(c) This subsection shall not alter the liability of any person covered by subsection (1) of this section.

- OR. ADMIN. R. § 340-140-0090 (2008): (1) The Department may demand repayment of cleanup costs from the responsible party when that person is known to the Department.

  (2) The law enforcement agency assisted shall provide the Department with a schedule of any court actions involving the prosecution of persons potentially liable for cleanup costs.

  (3) The Department will prepare invoices for the actual or estimated amount of the total cleanup costs and forward these invoices to the District Attorney's office handling the criminal prosecution of the case prior to the scheduled hearing date.

  (4) Where a law enforcement agency cannot assist the Department in cost recovery through court ordered restitution in a criminal proceeding, the law enforcement agency may be requested to provide assistance in a civil cost recovery action:

  (a) Law enforcement agencies may be asked to provide information on the identity and whereabouts of the responsible party;

  (b) Law enforcement agencies may be requested to serve notices on behalf of the Department.

(5) All funds received by the Department identified as cost repayment, restitution, and any other name used to describe repayment of drug lab cleanup expenses and administrative costs will be deposited in the Illegal Drug Cleanup Fund.

(6) When money is recovered from a responsible party under ORS 475.405 through 475.495, such money will be deposited in the Illegal Drug Cleanup Fund.

PENNSYLVANIA

- 18 PA. CONS. STAT. ANN. § 1110 (West 2008): (a) General rule.--When any person is convicted of an offense under The Controlled Substance, Drug, Device and Cosmetic Act involving the manufacture of a controlled substance, the court shall order the person to make restitution for the costs incurred in the cleanup, including labor costs, equipment and supplies, of any clandestine laboratory used by the person to manufacture the controlled substance.

  (b) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

  "Clandestine laboratory." A location or site, including buildings or vehicles, in which glassware, heating devices, precursors or related reagents or solvents which are intended to be used or are used to unlawfully manufacture a controlled substance are located.

  "Cleanup." Actions necessary to contain, collect, control, identify, analyze, disassemble, treat, remove or otherwise disperse all substances and materials in a clandestine laboratory, including those found to be hazardous waste and any contamination caused by those substances or materials.

RHODE ISLAND

- NOT FOUND

SOUTH CAROLINA

- S.C. CODE. ANN. § 44-53-376 (2007): (A) It is unlawful for a person to knowingly cause to be disposed any waste from the production of methamphetamine or knowingly assist, solicit, or conspire with another to dispose of methamphetamine waste.

  (B) A person who violates subsection (A) is guilty of a felony and, upon conviction for a first offense, must be imprisoned not more than five years or fined not more than five thousand dollars, or both. Upon conviction for a second or subsequent offense, a person

must be imprisoned not more than ten years or fined not more than ten thousand dollars, or both.

(C) If a person is convicted of a violation of this section, in a manner that requires an emergency or environmental response, the person convicted must be required to make restitution to all public entities involved in the emergency response, to cover the reasonable cost of their participation in the emergency response. The convicted person shall make the restitution in addition to any other fine or penalty required by law.

(D) Exempt from the provisions of this section are the individuals, entities, agencies, law enforcement groups, and those otherwise authorized, who are lawfully tasked with the proper disposal of the waste created from methamphetamine production.

SOUTH DAKOTA

- NOT FOUND

TENNESSEE

- TENN. CODE ANN. § 39-17-417(a) to -417(c) (West 2008): (a) It is an offense for a defendant to knowingly:

  (1) Manufacture a controlled substance;

  (2) Deliver a controlled substance;

  (3) Sell a controlled substance; or

  (4) Possess a controlled substance with intent to manufacture, deliver or sell the controlled substance.

  (b) A violation of subsection (a) with respect to a Schedule I controlled substance is a Class B felony and, in addition, may be fined not more than one hundred thousand dollars ($100,000).

  (c) A violation of subsection (a) with respect to:

  (1) Cocaine or methamphetamine is a Class B felony if the amount involved is point five (.5) grams or more of any substance containing cocaine or methamphetamine and, in addition, may be fined not more than one hundred thousand dollars ($100,000); and

  (2)(A) Any other Schedule II controlled substance, including cocaine or methamphetamine in an amount of less than point five (.5) grams, is a Class C felony

and, in addition, may be fined not more than one hundred thousand dollars ($100,000); provided, that if the offense involves less than point five (.5) grams of a controlled substance containing cocaine or methamphetamine but the defendant carried or employed a deadly weapon as defined in § 39-11-106, during commission of the offense or the offense resulted in death or bodily injury to another person, the offense is a Class B felony.

(B) As a part of any sentence imposed for a violation of subdivision (a)(1) involving a controlled substance listed in § 39-17-408(d)(2), the court shall require the defendant to make restitution to any governmental entity for the costs reasonably incurred in cleaning the area in which the offense occurred and in rendering the area safe for human use.

(C) In addition to the requirement that restitution be made to the governmental entity pursuant to subdivision (c)(2)(B), the court shall also require that restitution be made to any private property owner, either real or personal, whose property is destroyed or suffers damage as a result of the offense. In the case of property that was rented or leased, damages may also include the loss of any revenue that occurred because the property was uninhabitable or a crime scene. The type and amount of restitution permitted pursuant to this subdivision (c)(2)(C) shall be determined by the court using the procedure set out in § 40-35-304.

- TENN. CODE ANN. § 68-212-506 (West 2008): Any inspection, testing or quarantine conducted pursuant to this part shall be considered when calculating the appropriate restitution under § 39-17-417(c)(2)(B).

TEXAS

- TEX. CIV. PRAC. & REM. CODE ANN. § 99.002 (Vernon 2007): A person who manufactures methamphetamine is strictly liable for damages for personal injury, death, or property damage arising from the manufacture.

- TEX. CIV. PRAC. & REM. CODE ANN. § 99.003 (Vernon 2007): A person who manufactures methamphetamine is strictly liable for any exposure by an individual to the manufacturing process, including exposure to the methamphetamine itself or any of the byproducts or waste products incident to the manufacture, for the greater of:

  (1) actual damages for personal injury, death, or property damage as a result of the exposure; or

  (2) $20,000 for each incident of exposure.

LIABILITY OF PERSON RESPONSIBLE FOR LAB

UTAH

- NOT FOUND

VERMONT

- NOT FOUND

VIRGINIA

- VA. CODE ANN. § 18.2-248(A)-(C1) (2008) (as amended by 2008 H.B. 1147): A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it shall be unlawful for any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute a controlled substance or an imitation controlled substance.

  B. In determining whether any person intends to manufacture, sell, give or distribute an imitation controlled substance, the court may consider, in addition to all other relevant evidence, whether any distribution or attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever included an exchange of or a demand for money or other property as consideration, and, if so, whether the amount of such consideration was substantially greater than the reasonable value of such pill, capsule, tablet or substance in any other form whatsoever, considering the actual chemical composition of such pill, capsule, tablet or substance in any other form whatsoever and, where applicable, the price at which over-the-counter substances of like chemical composition sell.

  C. Except as provided in subsection C1, any person who violates this section with respect to a controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than five nor more than 40 years and fined not more than $500,000. Upon a second or subsequent conviction of such a violation, any such person may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less than five years and be fined not more than $500,000.

  When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the warrant, indictment or information that he has been before convicted of two or more such offenses or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period of not less than five years, five years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence and he shall be fined not more than $500,000.

LIABILITY OF PERSON RESPONSIBLE FOR LAB

Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than $1 million and imprisonment for five years to life, five years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence:

1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;

2. 500 grams or more of a mixture or substance containing a detectable amount of:

a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

d. Any compound, mixture, or preparation that contains any quantity of any of the substances referred to in subdivisions 2a through 2c;

3. 250 grams or more of a mixture or substance described in subdivisions 2a through 2d that contain cocaine base; or

4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall not be applicable if the court finds that:

a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;

b. The person did not use violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense or induce another participant in the offense to do so;

c. The offense did not result in death or serious bodily injury to any person;

d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I; and

e. Not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other information to provide or that the Commonwealth already is aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction, be imprisoned for not less than 10 nor more than 40 years and fined not more than $500,000. Upon a second conviction of such a violation, any such person may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less than 10 years, and be fined not more than $500,000. When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the warrant, indictment, or information that he has been previously convicted of two or more such offenses or of substantially similar offenses in any other jurisdiction, which offenses would be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period not less than 10 years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence and he shall be fined not more than $500,000. Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner whose property is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production. This restitution may include the person's or his estate's estimated or actual expenses associated with cleanup, removal, or repair of the affected property.

- VA. CODE ANN. § 19.2-305.1 (2008): A. Notwithstanding any other provision of law, no person convicted of a crime in violation of any provision in Title 18.2, which resulted in property damage or loss, shall be placed on probation or have his sentence suspended unless such person shall make at least partial restitution for such property damage or loss, or shall be compelled to perform community services, or both, or shall submit a plan for doing that which appears to the court to be feasible under the circumstances.

LIABILITY OF PERSON RESPONSIBLE FOR LAB

B. Notwithstanding any other provision of law, any person who, on or after July 1, 1995, commits, and is convicted of, a crime in violation of any provision in Title 18.2 shall make at least partial restitution for any property damage or loss caused by the crime or for any medical expenses or expenses directly related to funeral or burial incurred by the victim or his estate as a result of the crime, may be compelled to perform community services and, if the court so orders, shall submit a plan for doing that which appears to be feasible to the court under the circumstances.

B1. Notwithstanding any other provision of law, any person, who on or after July 1, 2005 commits and is convicted of a crime in violation of § 18.2-248 involving the manufacture of any controlled substance, may be ordered, upon presentation of suitable evidence of such costs, by the court to reimburse the Commonwealth or the locality for the costs incurred by the jurisdiction, as the case may be, for the removal and remediation associated with the illegal manufacture of any controlled substance by the defendant.

C. At or before the time of sentencing, the court shall receive and consider any plan for making restitution submitted by the defendant. The plan shall include the defendant's home address, place of employment and address, social security number and bank information. If the court finds such plan to be reasonable and practical under the circumstances, it may consider probation or suspension of whatever portion of the sentence that it deems appropriate. By order of the court incorporating the defendant's plan or a reasonable and practical plan devised by the court, the defendant shall make restitution while he is free on probation or work release or following his release from confinement. Additionally, the court may order that the defendant make restitution during his confinement, if feasible, based upon both his earning capacity and net worth as determined by the court at sentencing.

D. At the time of sentencing, the court shall determine the amount to be repaid by the defendant and the terms and conditions thereof. If community service work is ordered, the court shall determine the terms and conditions upon which such work shall be performed. The court shall include such findings in the judgment order. The order shall specify that sums paid under such order shall be paid to the clerk, who shall disburse such sums as the court may, by order, direct. Any court desiring to participate in the Setoff Debt Collection Act (§§ 58.1-520 through 58.1-535) for the purpose of collecting fines or costs or providing restitution shall, at the time of sentencing, obtain the social security number of each defendant.

E. Unreasonable failure to execute the plan by the defendant shall result in revocation of the probation or imposition of the suspended sentence. A hearing shall be held in accordance with the provisions of this Code relating to revocation of probation or imposition of a suspended sentence before either such action is taken.

F. If restitution is ordered to be paid by the defendant to the victim of a crime and the victim can no longer be located or identified, the clerk shall deposit any such restitution collected to the Criminal Injuries Compensation Fund for the benefit of crime victims. The administrator shall reserve a sum sufficient in the Fund from which he shall make prompt payment to the victim for any proper claims. Before making the deposit he shall record the name, last known address and amount of restitution due each victim appearing from the clerk's report to be entitled to restitution.

WASHINGTON

- WASH. REV. CODE ANN. § 69.50.401 (West 2008): (1) Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

  (2) Any person who violates this section with respect to:

  (a) A controlled substance classified in Schedule I or II which is a narcotic drug or flunitrazepam, including its salts, isomers, and salts of isomers, classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine;

  (b) Amphetamine, including its salts, isomers, and salts of isomers, or methamphetamine, including its salts, isomers, and salts of isomers, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine. Three thousand dollars of the fine may not be suspended. As collected, the first three thousand dollars of the fine must be deposited with the law enforcement agency having responsibility for cleanup of laboratories, sites, or substances used in the manufacture of the methamphetamine, including its salts, isomers, and salts of isomers. The fine moneys deposited with that law enforcement agency must be used for such clean-up cost;

  (c) Any other controlled substance classified in Schedule I, II or III, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(d) A substance classified in Schedule IV, except flunitrazepam, including its salts, isomers, and salts of isomers, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(e) A substance classified in Schedule V, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

- WASH. REV. CODE ANN. § 69.50.440 (West 2008): (1) It is unlawful for any person to possess ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, pressurized ammonia gas, or pressurized ammonia gas solution with intent to manufacture methamphetamine, including its salts, isomers, and salts of isomers.

  (2) Any person who violates this section is guilty of a class B felony and may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both. Three thousand dollars of the fine may not be suspended. As collected, the first three thousand dollars of the fine must be deposited with the law enforcement agency having responsibility for cleanup of laboratories, sites, or substances used in the manufacture of the methamphetamine, including its salts, isomers, and salts of isomers. The fine moneys deposited with that law enforcement agency must be used for such clean-up cost.

WEST VIRGINIA

- W. VA. CODE ANN. § 60A-4-411 (West 2008): (a) Any person who operates or attempts to operate a clandestine drug laboratory is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than two years nor more than ten years or fined not less than five thousand dollars nor more than twenty-five thousand dollars, or both.

  (b) For purposes of this section, a "clandestine drug laboratory" means any property, real or personal, on or in which a person assembles any chemicals or equipment or combination thereof for the purpose of manufacturing methamphetamine, methylenedioxymethamphetamine or lysergic acid diethylamide in violation of the provisions of section four hundred one of this article.

  (c) Any person convicted of a violation of subsection (a) of this section shall be responsible for all reasonable costs, if any, associated with remediation of the site of the clandestine drug laboratory.

LIABILITY OF PERSON RESPONSIBLE FOR LAB

- W. VA. CODE ANN. 60A-11-6 (West 2008): Any person convicted pursuant to section four, subsection (d), article ten of this chapter and whose actions also resulted in the necessity of remediation of a clandestine drug laboratory, shall be liable to the person or entity for all costs associated with the remediation of the clandestine drug laboratory. These costs may include attorney's fees and court costs reasonably necessary to bring an action to collect the amount paid for the remediation.

WISCONSIN

- NOT FOUND

WYOMING

- WYO. STAT. ANN. § 35-9-157 (2008): (a) The state, political subdivision of the state or other unit of local government is hereby given the right to claim reimbursement for the costs resulting from action taken to remove, contain or otherwise mitigate the effects of a hazardous materials abandonment, a hazardous materials spill or a weapons of mass destruction incident.

  (b) Notwithstanding subsection (a) of this section and except with respect to a response to a clandestine laboratory operation incident, no person shall be liable under this act if the incident was caused by:

  (i) An act of God; or

  (ii) An act or omission of a person not defined as a transporter under this act, provided that:

  (A) The potentially liable person exercised reasonable care with respect to the hazardous material involved, taking into consideration the characteristics of the hazardous material in light of all relevant facts and circumstances; and

  (B) The potentially liable person took reasonable precautions against foreseeable acts or omissions of any third person and the consequences that could foreseeably result from those acts or omissions.

  (c) Local emergency response authorities and regional emergency response teams shall be entitled to recover their reasonable and necessary costs incurred as a result of their response to a hazardous material or weapons of mass destruction incident. Costs subject to recovery under this act include, but are not limited to, the following:
  (i) Disposable materials and supplies acquired, consumed and expended specifically for the purpose of the response;

(ii) Remuneration of employees for the time and efforts devoted to responding to a hazardous materials or weapons of mass destruction incident outside the responders' normal jurisdiction;

(iii) A reasonable fee, as established through rules and regulations of the director, office of homeland security, for the use of equipment, including rolling stock, in responding to a hazardous materials or weapons of mass destruction incident outside the responders' normal jurisdiction;

(iv) Rental or leasing of equipment used specifically for the response;

(v) At value replacement costs for equipment owned by the person claiming reimbursement that is contaminated beyond reuse or repair, if the loss occurred as a result of the response;

(vi) Decontamination of equipment contaminated during the response;

(vii) Special technical services specifically requested and required for the response;

(viii) Medical monitoring or treatment of response personnel;

(ix) Laboratory expenses for analyzing samples taken during the response; and

(x) If determined to involve criminal activity, all costs and expenses of the investigation.

(d) Nothing contained in this section shall be construed to change or impair any right of recovery or subrogation arising under any other provision of law.

- WYO. STAT. ANN. § 35-9-158 (2008): (a) The decision to commence a civil action to recover expenses shall be made by the state, political subdivision of the state or other unit of local government, including local emergency response authorities and regional response teams, in consultation with the attorney general or county or municipal attorney as appropriate. With respect to a civil action to recover expenses for a clandestine laboratory operation incident, the governing body shall first make such claim against the party responsible for the clandestine laboratory operation and shall use the proceeds of any asset forfeiture directly related to the building or structure containing the clandestine laboratory to offset expenses, including expenses for remediation of the site. Claims of expenses for remediation for a clandestine laboratory operation incident may be made against the owner of a building or structure containing a clandestine laboratory operation only as follows:

(i) The law enforcement agency acting as an emergency responder shall keep an accurate account of the expenses incurred in carrying out the remediation and shall report the actions and present a statement of the expenses incurred and the amount received from any salvage sale to the court for approval and allowance;

(ii) The court shall examine, correct, if necessary, and allow the expense account to the extent the expenses exceed those recovered from the party responsible for the clandestine laboratory operation. If the owner did not know or could not with reasonable diligence have known of the clandestine laboratory operation, the amount recoverable from the owner shall be limited to one percent (1%) of the fair market value as determined by the county assessor of that portion of the building, structure or land declared uninhabitable by the incident commander;

(iii) The amount allowed by the court constitutes a lien against the real property on which a clandestine laboratory operation incident occurred or was situated. If the amount is not paid by the owner within six (6) months after the amount has been examined and approved by the court, the real estate may be sold under court order by the county sheriff in the manner provided by law for the sale of real estate upon execution;

(iv) The proceeds of the sale shall be paid into the treasury of the governing body of the law enforcement agency acting as the emergency responder. If the amount received as salvage or upon sale exceeds the expenses allowed by the court, the court shall direct payment of the surplus to the previous owner for his use and benefit;

(v) Whenever any debt which is a lien pursuant to this subsection is paid and satisfied, the law enforcement agency acting as an emergency responder shall file notice of satisfaction of the lien statement in the office of the county clerk of any county in which the lien is filed; and

(vi) If the expenses of the law enforcement agency exceed the amount allowed by the court pursuant to paragraph (ii) of this subsection, the law enforcement agency acting as an emergency responder may apply for reimbursement of the excess expenses from the funds as authorized by W.S. 1-40-118(g)(i)(C). If the expenses further exceed amounts available under W.S. 1-40-118(g)(i)(C), the emergency responder may apply for reimbursement from the clandestine laboratory remediation account created pursuant to W.S. 35-9-159(f).

(b) Prior to commencing a civil action for recovery of expenses pursuant to this act, the governmental entity shall afford the person alleged to owe those expenses a reasonable

opportunity to engage in nonbinding mediation. Each party to mediation shall bear his own costs and expenses, including a proportionate share of the fees of the mediator.

(c) In the event that the attorney general or county or municipal attorney prevails in a civil action for reimbursement under this act, the court shall award costs of collection including reasonable attorney's fees, investigation expenses and litigation expenses.

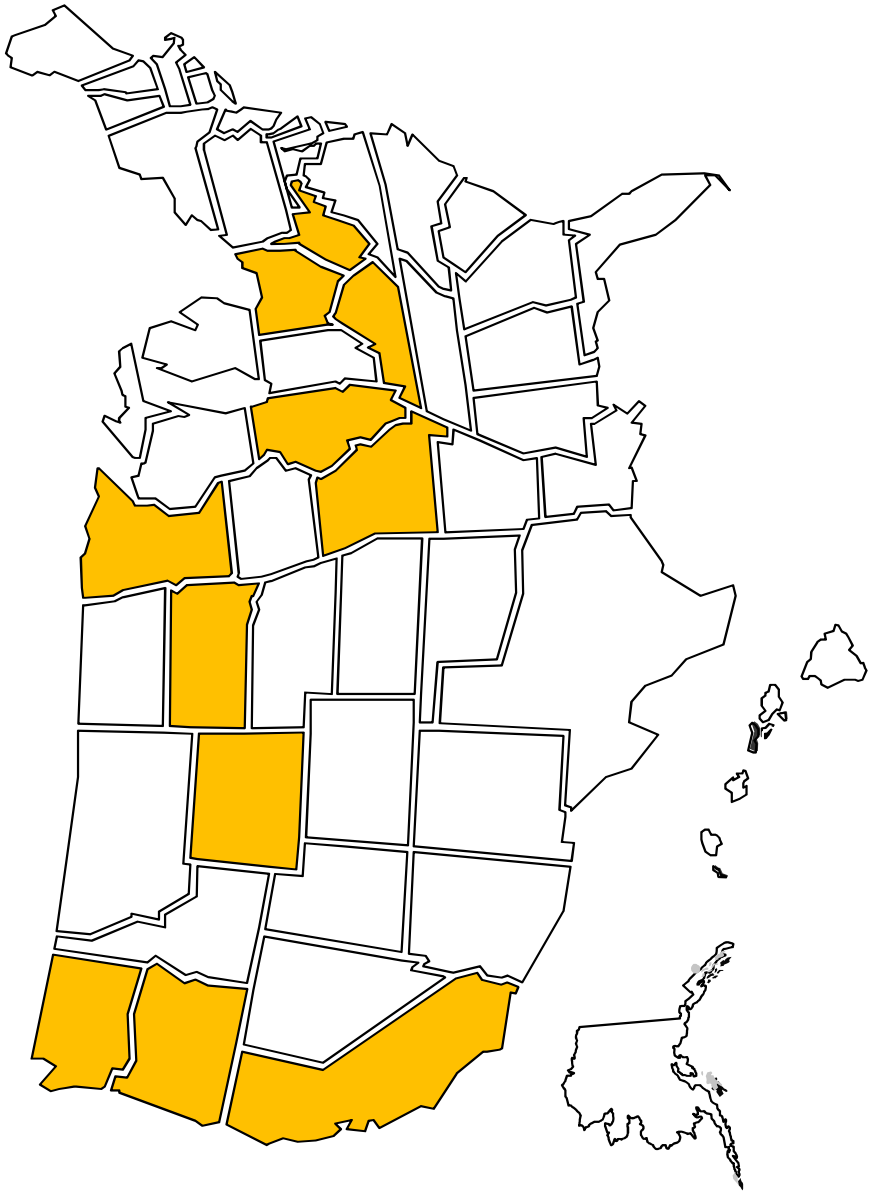
(d) Any person who receives remuneration for the emergency response expenses pursuant to any other federal or state law shall be precluded from recovering reimbursement for those expenses under this act. Nothing in this act shall otherwise affect or modify in any way the obligations or liability of any person under any other provision of state or federal law, including common law, for damages, injury or loss resulting from the release of any hazardous material or for remedial action or the expenses of remedial action for the release.

OTHER SOURCES OF CLEANUP AND REMEDIAITON FUNDING

States are developing and implementing alternative funding mechanisms to help defray remediation costs borne by both the state and private individuals. Some of these other sources of funding include, but are not limited to: (1) grant programs; (2) revolving loan programs; and (3) state illegal drug cleanup funds.

At a Glance: Common Themes Regarding Properties Where Controlled Substance Laboratories are Found

STATES WITH STATUES, REGULATIONS OR GUIDELINES THAT ESTABLISH ALTERNATIVE SOURCES OF FUNDING FOR CLANDESTINE LABORATORY CLEANUP AND REMEDIATION



ALABAMA

- NOT FOUND

ALASKA

- NOT FOUND

ARIZONA

- NOT FOUND

ARKANSAS

- NOT FOUND

CALIFORNIA

- CAL. HEALTH & SAFETY CODE § 11100.05 (West 2008): (a) In addition to any fine or imprisonment imposed under subdivision (f) of Section 1110 or subdivision (j) of Section 11106 of the Health and Safety Code, the following drug cleanup fine shall be imposed:

  (1) Ten thousand dollars ($10,000) for violations described in paragraph (1) of subdivision (f) of Section 11100.

  (2) One hundred thousand dollars ($100,000) for violations described in paragraph (2) of subdivision (f) of Section 11100.

  (3) Ten thousand dollars ($10,000) for violations described in subdivision (j) of Section 11106.

  (b) At least once a month, all fines collected under this section shall be transferred to the State Treasury for deposit in the Clandestine Drug Lab Clean-up Account. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

- CAL. HEALTH & SAFETY CODE § 11374.5 (West 2008): (a) Any manufacturer of a controlled substance who disposes of any hazardous substance that is a controlled substance or a chemical used in, or is a byproduct of, the manufacture of a controlled substance in violation of any law regulating the disposal of hazardous substances or hazardous waste is guilty of a public offense punishable by imprisonment in the state prison for two, three, or four years or in the county jail not exceeding one year.

  (b)(1) In addition to any other penalty or liability imposed by law, a person who is convicted of violating subdivision (a), or any person who is convicted of the manufacture, sale, possession for sale, possession, transportation, or disposal of any

hazardous substance that is a controlled substance or a chemical used in, or is a byproduct of, the manufacture of a controlled substance in violation of any law, shall pay a penalty equal to the amount of the actual cost incurred by the state or local agency to remove and dispose of the hazardous substance that is a controlled substance or a chemical used in, or is a byproduct of, the manufacture of a controlled substance and to take removal action with respect to any release of the hazardous substance or any items or materials contaminated by that release, if the state or local agency requests the prosecuting authority to seek recovery of that cost. The court shall transmit all penalties collected pursuant to this subdivision to the county treasurer of the county in which the court is located for deposit in a special account in the county treasury. The county treasurer shall pay that money at least once a month to the agency that requested recovery of the cost for the removal action. The county may retain up to 5 percent of any assessed penalty for appropriate and reasonable administrative costs attributable to the collection and disbursement of the penalty.

(2) If the Department of Toxic Substances Control has requested recovery of the cost of removing the hazardous substance that is a controlled substance or a chemical used in, or is a byproduct of, the manufacture of a controlled substance or taking removal action with respect to any release of the hazardous substance, the county treasurer shall transfer funds in the amount of the penalty collected to the Treasurer, who shall deposit the money in the Illegal Drug Lab Cleanup Account, which is hereby created in the General Fund in the State Treasury. The Department of Toxic Substances Control may expend the money in the Illegal Drug Lab Cleanup Account, upon appropriation by the Legislature, to cover the cost of taking removal actions pursuant to Section 25354.5.

(3) If a local agency and the Department of Toxic Substances Control have both requested recovery of removal costs with respect to a hazardous substance that is a controlled substance or a chemical used in, or is a byproduct of, the manufacture of a controlled substance, the county treasurer shall apportion any penalty collected among the agencies involved in proportion to the costs incurred.

(c) As used in this section the following terms have the following meaning:

(1) “Dispose” means to abandon, deposit, intern, or otherwise discard as a final action after use has been achieved or a use is no longer intended.

(2) “Hazardous substance” has the same meaning as defined in Section 25316.

(3) “Hazardous waste” has the same meaning as defined in Section 25117.

(4) For purposes of this section, “remove” or “removal” has the same meaning as set forth in Section 25323.

- CAL. HEALTH & SAFETY CODE § 11379.6 (West 2008): (a) Except as otherwise provided by law, every person who manufactures, compounds, converts, produces, derives, processes, or prepares, either directly or indirectly by chemical extraction or independently by means of chemical synthesis, any controlled substance specified in Section 11054, 11055, 11056, 11057 or 11058 shall be punished by imprisonment in the state prison for three, five, or seven years and by a fine not exceeding fifty thousand dollars ($50,000).

  (b) Except when an enhancement pursuant to Section 11379.7 is pled and proved, the fact that a person under 16 years of age resided in a structure in which a violation of this section occurred shall be considered a factor in aggravation by the sentencing court.

  (c) Except as otherwise provided by law, every person who offers to perform an act which is punishable under subdivision (a) shall be punished by imprisonment in the state prison for three, four, or five years.

  (d) All fines collected pursuant to subdivision (a) shall be transferred to the State Treasury for deposit in the Clandestine Drug Lab Clean-up Account, as established by Section 5 of Chapter 1295 of the Statutes of 1987. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by the county.

- CAL. HEALTH & SAFETY CODE § 11642 (West 2008): (a) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,750,000 for costs of prosecuting violations, attempts to violate, or conspiracies to violate Section 11100, 11100.1, 11104, 11105, 11379.6, or 11383 initiated after January 1, 1987. Funding under this subdivision shall not exceed twenty-five thousand dollars ($25,000) for each prosecution or joint prosecution assisted. All funds allocated to a county under this subdivision shall be distributed by it only to its prosecutorial agency, to be used solely for investigation and prosecution of these offenses. Funds distributed under this subdivision shall not be used to supplant any local funds that would, in the absence of this subdivision, be made available to support the prosecutorial efforts of counties.

  Cases wholly financed or reimbursed under any other state or federal program including, but not limited to, the Asset Forfeiture Program (Section 11489), the Major Narcotic Vendors Prosecution Law (Section 13881 of the Penal Code), or the California Career Criminal Apprehension Program (Section 13851 of the Penal Code), shall not be entitled to reimbursement under this subdivision.

(b) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,750,000 for law enforcement personnel expenses, not exceeding ten thousand dollars ($10,000) per case, incurred in the investigation of violations, attempts to violate, or conspiracies to violate Section 11100, 11100.1, 11104, 11105, 11379.6, or 11383 initiated after January 1, 1987. All funds allocated to a county under this subdivision shall be distributed by it only to its law enforcement agency to be used solely for investigation and detection of these offenses. Funds distributed under this subdivision shall not be used to supplant any local funds that would, in the absence of this subdivision, be made available to support the law enforcement efforts of counties. Cases financed or reimbursed under any other state or federal program, including, but not limited to, the Asset Forfeiture Program, (Section 11489), the California Career Criminal Apprehension Program (Section 13851 of the Penal Code), or the federal Asset Forfeiture Program (21 U.S.C. Sec. 881), shall not be entitled to reimbursement under this subdivision.

(c) (1) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,750,000 for costs incurred by, or at the

direction of, state or local law enforcement agencies to remove and dispose of or store toxic waste from the sites of laboratories used for the unlawful manufacture of a controlled substance.

(2) The local law enforcement agency or Department of Justice shall notify the local health officer within 24 hours of the seizure of a laboratory used for the unlawful manufacture of a controlled substance. The local health officer shall either:

(A) Make a determination as to whether the site poses an immediate threat to public health and safety, and if so, shall undertake immediate corrective action.

(B) Notify the State Department of Health Services.

As used in this section, "counties" includes any city within a county with a population of less than 1,750,000.

The Department of Justice may adopt emergency regulations consistent with this section and the Administrative Procedure Act.

- CAL. HEALTH & SAFETY CODE § 11643 (West 2008): To the extent moneys are available therefor, the Bureau of Narcotic Enforcement in the Department of Justice shall do the following:

(a) In cooperation with the Commission on Peace Officer Standards and Training provide advanced training to state and local law enforcement personnel on the unique skills, such as detection and identification of chemical substances, and safety precautions, such as safe handling, storage, and disposal of toxic substances, necessary to investigate clandestine laboratories illegally manufacturing controlled substances.

(b) Make safety equipment, such as protective clothing and breathing apparatus, available to local law enforcement officials, as needed, on a case-by-case basis in connection with investigation and abatement of laboratories illegally manufacturing controlled substances.

(c) Establish enhanced enforcement teams assigned to the investigation of clandestine laboratories illegally manufacturing controlled substances, particularly targeting cabals operating in multiple local jurisdictions. These teams shall include special agents trained in investigating clandestine laboratories, criminalists to analyze the chemicals involved, auditors to conduct financial investigations and initiate forfeiture proceedings pursuant to Chapter 8 (commencing with Section 11470) where warranted, and analysts to monitor the overall pattern and network of these clandestine laboratories across the state, to develop further cases, and to target law enforcement efforts where needed.

- CAL. HEALTH & SAFETY CODE § 11647 (West 2008): (a) The Crank-Up Task Force Program is hereby created within the Department of Justice as part of the Clandestine Laboratory Enforcement Program with responsibility for establishing, conducting, supporting, and coordinating crank-up task forces composed of state and local law enforcement agencies targeting the investigation, seizure, and cleanup of clandestine laboratories used to manufacture methamphetamine.

  (b) The department shall coordinate all investigations undertaken by task forces operating under the Crank-Up Task Force Program with all local agencies having law enforcement responsibilities within the jurisdictions involved. The department also shall solicit participation by appropriate federal agencies with task force investigations whenever possible.

  The department's Bureau of Narcotic Enforcement, Bureau of Forensic Services, and Bureau of Investigations shall provide staffing and logistical support for the crank-up task forces, supplying special agents, criminal intelligence analysts, forensic experts, financial auditors, equipment, and funding to the task forces as needed.

  (c) Local law enforcement agencies participating in the Crank-Up Task Force Program shall be reimbursed by the department for personnel overtime costs and equipment or supplies required for task force activities.

- CAL. HEALTH & SAFETY CODE § 25354.5 (West 2008): (a) A state or local law enforcement officer or investigator or other law enforcement agency employee who, in the course of an official investigation or enforcement action regarding the manufacture of any illegal controlled substance, comes in contact with, or is aware of, the presence of a substance that the person suspects is a hazardous substance at a site where an illegal controlled substance is or was manufactured, shall notify the department for the purpose of taking removal action, as necessary, to prevent, minimize, or mitigate damage that might otherwise result from the release or threatened release of the hazardous substance, except for samples required under Section 11479.5 to be kept for evidentiary purposes.

  (b)(1) Notwithstanding any other provision of law, upon receipt of a notification pursuant to subdivision (a), the department shall take removal action, as necessary, with respect to any hazardous substance that is an illegal controlled substance, a precursor of a controlled substance, a material intended to be used in the unlawful manufacture of a controlled substance and any container for such a material, a waste material from the unlawful manufacture of a controlled substance, or any other item contaminated with a hazardous substance used or intended to be used in the manufacture of a controlled substance. The department may expend funds appropriated from the Illegal Drug Lab Cleanup Account created pursuant to subdivision (f) to pay the costs of removal actions required by this section. The department may enter into oral contracts, not to exceed ten thousand dollars ($10,000) in obligation, when, in the judgment of the department, immediate corrective action to a hazardous substance subject to this section is necessary to remedy or prevent an emergency.

  (2) The department shall, as soon as the information is available, report the location of any removal action that will be carried out pursuant to paragraph (1), and the time that the removal action will be carried out, to the local environmental health officer within whose jurisdiction the removal action will take place, if the local environmental officer does both of the following:

  (A) Requests, in writing, that the department report this information to the local environmental health officer.

  (B) Provides the department with a single 24-hour telephone number to which the information can be reported.

  (c)(1) For purposes of Chapter 6.5 (commencing with Section 25100), Chapter 6.9.1 (commencing with Section 25400.10), or this chapter, any person who is found to have operated a site for the purpose of manufacturing an illegal controlled substance or a precursor of an illegal controlled substance is the generator of any hazardous substance at, or released from, the site that is subject to removal action pursuant to this section.

(2) During the removal action, for purposes of complying with the manifest requirements in Section 25160, the department, the county health department, the local environmental health officer, or their designee may sign the hazardous waste manifest as the generator of the hazardous waste. In carrying out that action, the department, the county health department, the local environmental health officer, or their designee shall be considered to have acted in furtherance of their statutory responsibilities to protect the public health and safety and the environment from the release, or threatened release, of hazardous substances, and the department, the county health department, the local environmental health officer, or their designee are not responsible parties for the release or threatened release of the hazardous substances.

(3) The officer, investigator, or agency employee specified in subdivision (a) is not a responsible party for the release or threatened release of any hazardous substances at, or released from, the site.

(d) The department may adopt regulations to implement this section in consultation with appropriate law enforcement and local environmental agencies.

(e)(1) The department shall develop sampling and analytical methods for the collection of methamphetamine residue.

(2) On or before October 1, 2007, the department, using guidance developed by the Office of Environmental Health Hazard Assessment, shall develop a health-based target remediation standard for methamphetamine.

(3) On or before October 1, 2008, the department shall, to the extent funding is available, develop health-based target remediation standards for iodine, methyl iodide, and phosphine.

(4) To the extent that funding is available, the department, using guidance developed by the Office of Environmental Health Hazard Assessment, may develop additional health-based target remediation standards for additional precursors and byproducts of methamphetamine.

(5) On or before October 1, 2009, the department shall adopt investigation and cleanup procedures for use in the remediation of sites contaminated by the illegal manufacturing of methamphetamine. The procedures shall assure that contamination by the illegal manufacturing of methamphetamine can be remediated to meet the standards adopted pursuant to paragraphs (2) to (4), inclusive, to protect the health and safety of all future occupants of the site.

(6) The department shall implement this subdivision in accordance with subdivision (d).

(f) The Illegal Drug Lab Cleanup Account is hereby created in the General Fund and the department may expend any money in the account, upon appropriation by the Legislature, to carry out the removal actions required by this section and to implement subdivision (e), including, but not limited to, funding any interagency agreement entered into with the Office of Environmental Health Hazard Assessment to provide guidance services. The account shall be funded by moneys appropriated directly from the General Fund.

(g) The responsibilities assigned to the department by this section apply only to the extent that sufficient funding is made available for that purpose.

COLORADO

- NOT FOUND

CONNECTICUT

- NOT FOUND

DELAWARE

- NOT FOUND

FLORIDA

- NOT FOUND

GEORGIA

- NOT FOUND

HAWAII

- NOT FOUND

IDAHO

- NOT FOUND

ILLINOIS

- 730 ILL. COMP. STAT. ANN. 5/5-9-1.2 (West 2008): (a) Twelve and one-half percent of all amounts collected as fines pursuant to Section 5-9-1.1 shall be paid into the Youth Drug Abuse Prevention Fund, which is hereby created in the State treasury, to be used by the Department of Human Services for the funding of programs and services for drug-abuse treatment, and prevention and education services, for juveniles.

(b) Eighty-seven and one-half percent of the proceeds of all fines received pursuant to Section 5-9-1.1 shall be transmitted to and deposited in the treasurer's office at the level of government as follows:

(1) If such seizure was made by a combination of law enforcement personnel representing differing units of local government, the court levying the fine shall equitably allocate 50% of the fine among these units of local government and shall allocate 37 1/2 % to the county general corporate fund. In the event that the seizure was made by law enforcement personnel representing a unit of local government from a municipality where the number of inhabitants exceeds 2 million in population, the court levying the fine shall allocate 87 1/2 % of the fine to that unit of local government. If the seizure was made by a combination of law enforcement personnel representing differing units of local government, and at least one of those units represents a municipality where the number of inhabitants exceeds 2 million in population, the court shall equitably allocate 87 1/2 % of the proceeds of the fines received among the differing units of local government.

(2) If such seizure was made by State law enforcement personnel, then the court shall allocate 37 1/2 % to the State treasury and 50% to the county general corporate fund.

(3) If a State law enforcement agency in combination with a law enforcement agency or agencies of a unit or units of local government conducted the seizure, the court shall equitably allocate 37 1/2 % of the fines to or among the law enforcement agency or agencies of the unit or units of local government which conducted the seizure and shall allocate 50% to the county general corporate fund.

(c) The proceeds of all fines allocated to the law enforcement agency or agencies of the unit or units of local government pursuant to subsection (b) shall be made available to that law enforcement agency as expendable receipts for use in the enforcement of laws regulating controlled substances and cannabis. The proceeds of fines awarded to the State treasury shall be deposited in a special fund known as the Drug Traffic Prevention Fund. Monies from this fund may be used by the Department of State Police for use in the enforcement of laws regulating controlled substances and cannabis; to satisfy funding provisions of the Intergovernmental Drug Laws Enforcement Act; and to defray costs and expenses associated with returning violators of the Cannabis Control Act, the Illinois Controlled Substances Act, and the Methamphetamine Control and Community Protection Act only, as provided in those Acts, when punishment of the crime shall be confinement of the criminal in the penitentiary. Moneys in the Drug Traffic Prevention Fund deposited from fines awarded as a direct result of enforcement efforts of the Illinois Conservation Police may be used by the Department of Natural Resources Office of Law Enforcement for use in enforcing laws regulating controlled substances and cannabis on Department of Natural Resources regulated lands and waterways. All other monies shall be paid into the general revenue fund in the State treasury.

(d) There is created in the State treasury the Methamphetamine Law Enforcement Fund. Moneys in the Fund shall be equitably allocated to local law enforcement agencies to: (1) reimburse those agencies for the costs of securing and cleaning up sites and facilities used for the illegal manufacture of methamphetamine; (2) defray the costs of employing full-time or part-time peace officers from a Metropolitan Enforcement Group or other local drug task force, including overtime costs for those officers; and (3) defray the costs associated with medical or dental expenses incurred by the county resulting from the incarceration of methamphetamine addicts in the county jail or County Department of Corrections.

There is created in the State treasury the Methamphetamine Law Enforcement Fund. Moneys in the Fund shall be equitably allocated to local law enforcement agencies to: (1) reimburse those agencies for the costs of securing and cleaning up sites and facilities used for the illegal manufacture of methamphetamine; (2) defray the costs of employing full-time or part-time peace officers from a Metropolitan Enforcement Group or other local drug task force, including overtime costs for those officers; and (3) defray the costs associated with medical or dental expenses incurred by the county resulting from the incarceration of methamphetamine addicts in the county jail or County Department of Corrections.

- 730 ILL. COMP. STAT. ANN. 5/5-9-1.1-5 (West 2008): (a) When a person has been adjudged guilty of a methamphetamine related offense involving possession or delivery of methamphetamine or any salt of an optical isomer of methamphetamine or possession of a methamphetamine manufacturing chemical set forth in paragraph (z-1) of Section 102 of the Illinois Controlled Substances Act with the intent to manufacture a substance containing methamphetamine or salt of an optical isomer of methamphetamine, in addition to any other penalty imposed, a fine shall be levied by the court at not less than the full street value of the methamphetamine or salt of an optical isomer of methamphetamine or methamphetamine manufacturing chemicals seized.

  "Street value" shall be determined by the court on the basis of testimony of law enforcement personnel and the defendant as to the amount seized and such testimony as may be required by the court as to the current street value of the methamphetamine or salt of an optical isomer of methamphetamine or methamphetamine manufacturing chemicals seized.

  (b) In addition to any penalty imposed under subsection (a) of this Section, a fine of $100 shall be levied by the court, the proceeds of which shall be collected by the Circuit Clerk and remitted to the State Treasurer under Section 27.6 of the Clerks of Courts Act for deposit into the Methamphetamine Law Enforcement Fund and allocated as provided in subsection (d) of Section 5- 9-1.2.

INDIANA

- NOT FOUND

IOWA

- NOT FOUND

KANSAS

- NOT FOUND

KENTUCKY

- KY. REV. STAT. ANN. § 198A.040 (West 2007) (as amended by 2008 H.B. 765): The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including but without limiting the generality of the foregoing the power:

(1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower and moderate income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(4) To make temporary loans from the housing development fund;

(5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness;

(6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, operate, hold, clear, improve, and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky Housing Corporation;

(7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage, or temporary loan of any type permitted by this chapter;

(8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;

(9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract, or agreement of any kind

to which the corporation is a party;

(10) To acquire, establish, operate, lease, and sublease residential housing for persons and families of lower and moderate income and to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;

(11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two (2) years from their date, consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;

(13) To provide technical and advisory services to sponsors of residential housing and to residents and potential residents thereof, including but not limited to housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) To encourage community organizations to participate in residential housing development;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this chapter;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) To sue and be sued in its own name and plead and be impleaded;

(19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;

(20) To adopt an official seal and alter the same at pleasure;

(21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;

(22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor, provided that any personal service contracts entered into shall be subject to review by the Government Contract Review Committee of the Legislative Research Commission;

(23) To invest any funds held in reserve or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the Internal Revenue Service regarding the investment of the proceeds of any federally tax exempt bond issue;

(24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;

(25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any such insurance, reinsurance, or waiver shall be made only upon the determination by the corporation:

(a) That such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonably equivalent terms and conditions; and

(b) That such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders, and developers;

(26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, municipalities, local housing authorities, and to owners of residential housing for the development, construction, rehabilitation, or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on

such terms and conditions as may be deemed appropriate by the corporation;

(27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of lower and moderate income;

(28) (a) To make a grant to reduce principal and interest payments on a mortgage or a rental payable by a regular member of the United States Armed Forces who names Kentucky as home of record for military purposes, during that member's deployment on active duty outside the United States, or payable by a member of a state National Guard or a Reserve component who names Kentucky as home of record for military purposes, during that member's federal active duty. To qualify for a grant, a member shall meet reasonable standards established by the corporation, including having family income equal to or less than two hundred percent (200%) of the state or area median income; and

(b) To provide a member identified in paragraph (a) of this subsection and that member's Kentucky resident spouse with the educational, technical, and ombudsman services that are necessary to maintain a mortgage during that member's federal active duty; and

(29) To establish a program to assist persons and families of lower and moderate income to help defray the cost of assessment and decontamination services required under KRS 224.01-410. To qualify for the program, a person shall meet reasonable standards established by the corporation. A person shall not be eligible for the program if convicted of a felony or found by the corporation to be responsible for contamination of the relevant property through methamphetamine production. The corporation shall report on the establishment and use of this program to the Legislative Research Commission by October 1 of each year.

The Kentucky Housing Corporation shall be exempt from the regulations of the Office of Insurance and the laws of the Commonwealth relating thereto.

- KY. REV. STAT. ANN. § 224.01-410(13) (West 2007) (as amended by 2008 H.B. 765): (13) The Environmental and Public Protection Cabinet, the Cabinet for Health and Family Services, and the Justice and Public Safety Cabinet shall pursue funds from the federal government, through grants or any other funding source, to help pay for the cost assessment and decontamination of inhabitable properties.

LOUISIANA

- NOT FOUND

MAINE

- NOT FOUND

MARYLAND

- NOT FOUND

MASSACHUSETTS

- NOT FOUND

MICHIGAN

- NOT FOUND

MINNESOTA

- MINN. STAT. ANN. § 446A.083 (West 2008): Subdivision 1. Definitions. As used in this section:

  (1) "clandestine lab site" has the meaning given in section 152.0275, subdivision 1, paragraph (a);

  (2) "property" has the meaning given in section 152.0275, subdivision 2, paragraph (a), but does not include motor vehicles; and

  (3) "remediate" has the meaning given to remediation in section 152.0275, subdivision 1, paragraph (a).

  Subd. 2. Account established. The authority shall establish a methamphetamine laboratory cleanup revolving account in the public facility authority fund to provide loans to counties and cities to remediate clandestine lab sites. The account must be credited with repayments.

  Subd. 3. Applications. Applications by a county or city for a loan from the account must be made to the authority on the forms prescribed by the authority. The application must include, but is not limited to:

  (1) the amount of the loan requested and the proposed use of the loan proceeds;

  (2) the source of revenues to repay the loan; and

  (3) certification by the county or city that it meets the loan eligibility requirements of subdivision 4.

  Subd. 4. Loan eligibility. A county or city is eligible for a loan under this section if the county or city:

(1) identifies a site or sites designated by a local public health department or law enforcement as a clandestine lab site;

(2) has required the site's property owner to remediate the site at cost, under a local public health nuisance ordinance that addresses clandestine lab remediation;

(3) certifies that the property owner cannot pay for the remediation immediately;

(4) certifies that the property owner has not properly remediated the site; and

(5) issues a revenue bond, secured as provided in subdivision 8, payable to the authority to secure the loan.

Subd. 5. Use of loan proceeds; reimbursement by property owner. (a) A loan recipient shall use the loan to remediate the clandestine lab site or if this has already been done to reimburse the applicable county or city fund for costs paid by the recipient to remediate the clandestine lab site.

(b) A loan recipient shall seek reimbursement from the owner of the property containing the clandestine lab site for the costs of the remediation. In addition to other lawful means of seeking reimbursement, the loan recipient may recover its costs through a property tax assessment by following the procedures specified in section 145A.08, subdivision 2, paragraph (c).

(c) A mortgagee is not responsible for cleanup costs under this section solely because the mortgagee becomes an owner of real property through foreclosure of the mortgage or by receipt of the deed to the mortgaged property in lieu of foreclosure.

Subd. 6. Award and disbursement of funds. The authority shall award loans to recipients on a first-come, first-served basis, provided that the recipient is able to comply with the terms and conditions of the authority loan, which must be in conformance with this section. The authority shall make a single disbursement of the loan upon receipt of a payment request that includes a list of remediation expenses and evidence that a second-party sampling was undertaken to ensure that the remediation work was successful or a guarantee that such a sampling will be undertaken.

Subd. 7. Loan conditions and terms. (a) When making loans from the revolving account, the authority shall comply with the criteria in paragraphs (b) to (e).

(b) Loans must be made at a two percent per annum interest rate for terms not to exceed ten years unless the recipient requests a 20-year term due to financial hardship.

(c) The annual principal and interest payments must begin no later than one year after completion of the cleanup. Loans must be amortized no later than 20 years after completion of the cleanup.

(d) A loan recipient must identify and establish a source of revenue for repayment of the loan and must undertake whatever steps are necessary to collect payments within one year of receipt of funds from the authority.

(e) The account must be credited with all payments of principal and interest on all loans, except the costs as permitted under section 446A.04, subdivision 5, paragraph (a).

(f) Loans must be made only to recipients with clandestine lab ordinances that address remediation.

Subd. 8. Authority to incur debt. Counties and cities may incur debt under this section by resolution of the board or council authorizing issuance of a revenue bond to the authority. The county or city may secure and pay the revenue bond only with proceeds derived from the property containing the clandestine lab site, including assessments and charges under section 145A.08, subdivision 2, paragraph (c); payments by the property owner; or similar revenues.

MISSISSIPPI

- NOT FOUND

MISSOURI

- MO. ANN. STAT. § 640.040 (West 2008): 1. The department of natural resources may provide the resources and personnel to assist in the cleanup and disposal of the hazardous substances including, but not limited to chemicals intended for use in or resulting from the manufacture or production of controlled substances.

  2. The department of natural resources may recover the costs of such cleanup and disposal from the parties responsible for the manufacture or production of controlled substances.

  3. The department of natural resources may adopt such rules as are necessary for the implementation and operation of this section.

  4. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

5. There is hereby created in the state treasury the "Controlled Substances Cleanup Fund", which shall contain any funds designated for controlled substances cleanup, including, but not limited to, funds derived from private gifts and grants as well as federal and state grants, payments and appropriations. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the fund shall not lapse. Interest received on such deposits shall be credited to the controlled substances cleanup fund.

MONTANA

- NOT FOUND

NEBRASKA

- NOT FOUND

NEVADA

- NOT FOUND

NEW HAMPSHIRE

- NOT FOUND

NEW JERSEY

- NOT FOUND

NEW MEXICO

- NOT FOUND

NEW YORK

- NOT FOUND

NORTH CAROLINA

- NOT FOUND

NORTH DAKOTA

- NOT FOUND

OHIO

- OHIO REV. CODE ANN. § 2981.13 (West 2008) (A) Except as otherwise provided in this section, property ordered forfeited as contraband, proceeds, or an instrumentality pursuant to this chapter shall be disposed of, used, or sold pursuant to section 2981.12 of Revised Code. If the property is to be sold under that section, the prosecutor shall cause notice of the proposed sale to be given in accordance with law.

(B) If the contraband or instrumentality forfeited under this chapter is sold, any moneys acquired from a sale and any proceeds forfeited under this chapter shall be applied in the following order:

(1) First, to pay costs incurred in the seizure, storage, maintenance, security, and sale of the property and in the forfeiture proceeding;

(2) Second, in a criminal forfeiture case, to satisfy any restitution ordered to the victim of the offense or, in a civil forfeiture case, to satisfy any recovery ordered for the person harmed, unless paid from other assets;

(3) Third, to pay the balance due on any security interest preserved under this chapter;

(4) Fourth, apply the remaining amounts as follows:

(a) If the forfeiture was ordered by a juvenile court, ten per cent to one or more certified alcohol and drug addiction treatment programs as provided in division (D) of 2981.12 of the Revised Code;

(b) If the forfeiture was ordered in a juvenile court, ninety per cent, and if the forfeiture was ordered in a court other than a juvenile court, one hundred per cent to the law enforcement trust fund of the prosecutor and to the following fund supporting the law enforcement agency that substantially conducted the investigation: the law enforcement trust fund of the county sheriff, municipal corporation, township, or park district created under section 511.18 or 1545.01 of the Revised Code; the state highway patrol contraband, forfeiture, and other fund; the department of public safety investigative unit contraband, forfeiture, and other fund; the department of taxation enforcement fund; the board of pharmacy drug law enforcement fund created by division (B)(1) of section 4729.65 of the Revised Code; the medicaid fraud investigation and prosecution fund; or the treasurer of state for deposit into the peace officer training commission fund if any other state law enforcement agency substantially conducted the investigation. In the case of property forfeited for medicaid fraud, any remaining amount shall be used by the attorney general to investigate and prosecute medicaid fraud offenses.

If the prosecutor declines to accept any of the remaining amounts, the amounts shall be applied to the fund of the agency that substantially conducted the investigation.

(c) If more than one law enforcement agency is substantially involved in the seizure of property forfeited under this chapter, the court ordering the forfeiture shall equitably divide the amounts, after calculating any distribution to the law enforcement trust fund of the prosecutor pursuant to division (B)(4) of this section, among the entities that the court determines were substantially involved in the seizure.

(C)(1) A law enforcement trust fund shall be established by the prosecutor of each county who intends to receive any remaining amounts pursuant to this section, by the sheriff of each county, by the legislative authority of each municipal corporation, by the board of township trustees of each township that has a township police department, township police district police force, or office of the constable, and by the board of park commissioners of each park district created pursuant to section 511.18 or 1545.01 of the Revised Code that has a park district police force or law enforcement department, for the purposes of this section.

There is hereby created in the state treasury the state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the medicaid fraud investigation and prosecution fund, the department of taxation enforcement fund, and the peace officer training commission fund, for the purposes of this section.

Amounts distributed to any municipal corporation, township, or park district law enforcement trust fund shall be allocated from the fund by the legislative authority only to the police department of the municipal corporation, by the board of township trustees only to the township police department, township police district police force, or office of the constable, and by the board of park commissioners only to the park district police force or law enforcement department.

(2)(a) No amounts shall be allocated to a fund created under this section or used by an agency unless the agency has adopted a written internal control policy that addresses the use of moneys received from the appropriate fund. The appropriate fund shall be expended only in accordance with that policy and, subject to the requirements specified in this section, only for the following purposes:

(i) To pay the costs of protracted or complex investigations or prosecutions;

(ii) To provide reasonable technical training or expertise;

(iii) To provide matching funds to obtain federal grants to aid law enforcement, in the support of DARE programs or other programs designed to educate adults or children with respect to the dangers associated with the use of drugs of abuse;

(iv) <u>To pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory;</u>

(v) For other law enforcement purposes that the superintendent of the state highway patrol, department of public safety, prosecutor, county sheriff, legislative authority, board of township trustees, or board of park commissioners determines to be appropriate…

(b) The board of pharmacy drug law enforcement fund shall be expended only in accordance with the written internal control policy so adopted by the board and only in accordance with section 4729.65 of the Revised Code, except that it also may be expended to pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory.

(c) The state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the department of taxation enforcement fund, the board of pharmacy drug law enforcement fund, and a law enforcement trust fund shall not be used to meet the operating costs of the state highway patrol, of the investigative unit of the department of public safety, of the state board of pharmacy, of any political subdivision, or of any office of a prosecutor or county sheriff that are unrelated to law enforcement.

(d) Forfeited moneys that are paid into the state treasury to be deposited into the peace officer training commission fund shall be used by the commission only to pay the costs of peace officer training.

(3) Any of the following offices or agencies that receive amounts under this section during any calendar year shall file a report with the specified entity, not later than the thirty-first day of January of the next calendar year, verifying that the moneys were expended only for the purposes authorized by this section or other relevant statute and specifying the amounts expended for each authorized purpose:

(a) Any sheriff or prosecutor shall file the report with the county auditor.

(b) Any municipal corporation police department shall file the report with the legislative authority of the municipal corporation.

(c) Any township police department, township police district police force, or office of the constable shall file the report with the board of township trustees of the township.

(d) Any park district police force or law enforcement department shall file the report with the board of park commissioners of the park district.

(e) The superintendent of the state highway patrol and the tax commissioner shall file the report with the attorney general.

(f) The executive director of the state board of pharmacy shall file the report with the attorney general, verifying that cash and forfeited proceeds paid into the board of pharmacy drug law enforcement fund were used only in accordance with section 4729.65 of the Revised Code.

(g) The peace officer training commission shall file a report with the attorney general, verifying that cash and forfeited proceeds paid into the peace officer training commission fund pursuant to this section during the prior calendar year were used by the commission during the prior calendar year only to pay the costs of peace officer training.

(D) The written internal control policy of a county sheriff, prosecutor, municipal corporation police department, township police department, township police district police force, office of the constable, or park district police force or law enforcement department shall provide that at least ten per cent of the first one hundred thousand dollars of amounts deposited during each calendar year in the agency's law enforcement trust fund under this section, and at least twenty per cent of the amounts exceeding one hundred thousand dollars that are so deposited, shall be used in connection with community preventive education programs. The manner of use shall be determined by the sheriff, prosecutor, department, police force, or office of the constable after receiving and considering advice on appropriate community preventive education programs from the county's board of alcohol, drug addiction, and mental health services, from the county's alcohol and drug addiction services board, or through appropriate community dialogue.

The financial records kept under the internal control policy shall specify the amount deposited during each calendar year in the portion of that amount that was used pursuant to this division, and the programs in connection with which the portion of that amount was so used.

As used in this division, "community preventive education programs" include, but are not limited to, DARE programs and other programs designed to educate adults or children with respect to the dangers associated with using drugs of abuse.

(E) Upon the sale, under this section or section 2981.12 of the Revised Code, of any property that is required by law to be titled or registered, the state shall issue an appropriate certificate of title or registration to the purchaser. If the state is vested with title and elects to retain property that is required to be titled or registered under law, the state shall issue an appropriate certificate of title or registration.

(F) Any failure of a law enforcement officer or agency, prosecutor, court, or the attorney general to comply with this section in relation to any property seized does not affect the validity of the seizure and shall not be considered to be the basis for suppressing any evidence resulting from the seizure, provided the seizure itself was lawful.

OKLAHOMA

- NOT FOUND

OREGON

- OR. REV. STAT. ANN. § 131.594 (2008): (1) After the seizing agency distributes property under ORS 131.588, and when the seizing agency is not the state, the seizing agency shall dispose of and distribute property as follows:

  (a) The seizing agency shall pay costs first from the property or its proceeds. As used in this subsection, "costs" includes the expenses of publication, service of notices, towing, storage and servicing or maintaining the seized property under ORS 131.564.

  (b) After costs have been paid, the seizing agency shall distribute to the victim any amount the seizing agency was ordered to distribute under ORS 131.588 (4).

  (c) After costs have been paid and distributions under paragraph (b) of this subsection have been made, the seizing agency shall distribute the rest of the property to the general fund of the political subdivision that operates the seizing agency.

  (2) Of the property distributed under subsection (1)(c) of this section, the political subdivision shall distribute:

  (a) Three percent to the Asset Forfeiture Oversight Account established in ORS 475a.160;

  (b) Seven percent to the Illegal Drug Cleanup Fund established in ORS 475.495 for the purposes specified in ORS 475.495 (5); and

  (c) Ten percent to the state General Fund.

  (3) Of the property distributed under subsection (1)(c) of this section that remains in the general fund of the political subdivision after the distributions required by subsection (2) of this section have been made:

  (a) Fifty percent must be for official law enforcement use; and

(b) Fifty percent must be used for substance abuse treatment pursuant to a plan developed under ORS 430.420.

(4) Except as otherwise provided by intergovernmental agreement, the seizing agency may:

(a) Sell, lease, lend or transfer the property or proceeds to any federal, state or local law enforcement agency or district attorney.

(b) Sell the forfeited property by public or other commercially reasonable sale and pay from the proceeds the expenses of keeping and selling the property.

(c) Retain the property.

(d) With written authorization from the district attorney for the seizing agency's jurisdiction, destroy any firearms or controlled substances.

(5) A political subdivision may sell as much property as may be needed to make the distributions required by subsections (1) and (2) of this section. A political subdivision shall make distributions to the Asset Forfeiture Oversight Account, the Illegal Drug Cleanup Fund and the state General Fund that are required by subsection (2) of this section once every three months. The distributions are due within 20 days of the end of each quarter. Interest does not accrue on amounts that are paid within the period specified by this subsection.

(6) A seizing agency may donate growing equipment and laboratory equipment that was used, or intended for use, in manufacturing of controlled substances to a public school, community college or state institution of higher education.

(7) This section applies only to criminal forfeiture proceeds arising out of prohibited conduct.

- OR. REV. STAT. ANN. § 131.597 (2008): (1) After the seizing agency distributes property under ORS 131.588, and when the seizing agency is the state or when the state is the recipient of property forfeited under ORS 131.550 to 131.600, the seizing agency shall dispose of and distribute property as follows:

  (a) The seizing agency shall pay costs first from the property or its proceeds. As used in this subsection, "costs" includes the expenses of publication, service of notices, towing, storage and servicing or maintaining the seized property under ORS 131.564.

(b) After costs have been paid, the seizing agency shall distribute to the victim any amount the seizing agency was ordered to distribute under ORS 131.588 (4).

(c) Of the property remaining after costs have been paid under paragraph (a) of this subsection and distributions have been made under paragraph (b) of this subsection, the seizing agency shall distribute:

(A) Three percent to the Asset Forfeiture Oversight Account established in ORS 475A.160;

(B) Seven percent to the Illegal Drug Cleanup Fund established in ORS 475.495 for the purposes specified in ORS 475.495 (5);

(C) Ten percent to the state General Fund;

(D) Subject to subsection (5) of this section, 40 percent to the Department of State Police or the Department of Justice for official law enforcement use; and

(E) Forty percent to the Drug Prevention and Education Fund established in ORS 430.422.

(2)(a) Any amount paid to or retained by the Department of Justice under subsection (1) of this section must be deposited in the Criminal Justice Revolving Account in the State Treasury.

(b) Any amount paid to or retained by the Department of State Police under subsection (1) of this section must be deposited in the State Police Account.

(3) The state may:

(a) With written authorization from the district attorney for the jurisdiction in which the property was seized, destroy any firearms or controlled substances.

(b) Sell the forfeited property by public or other commercially reasonable sale and pay from the proceeds the expenses of keeping and selling the property.

(c) Retain any vehicles, firearms or other equipment usable for law enforcement purposes, for official law enforcement use directly by the state.

(d) Lend or transfer any vehicles, firearms or other equipment usable for law enforcement purposes to any federal, state or local law enforcement agency or district attorney for official law enforcement use directly by the transferee entity.

(4) When the state has entered into an intergovernmental agreement with one or more political subdivisions under ORS 131.591, or when a law enforcement agency of this state has entered into an agreement with another law enforcement agency of this state, an equitable portion of the forfeited property distributed under subsection (1)(c)(D) of this section must be distributed to each agency participating in the seizure or criminal forfeiture as provided by the agreement.

(5) The property distributed under subsection (1)(c)(D) of this section, including any proceeds received by the state under an intergovernmental agreement or under an agreement between state law enforcement agencies, must be divided as follows:

(a) When no law enforcement agency other than the Department of Justice participated in the seizure or forfeiture, or when the Department of Justice has entered into an agreement under subsection (4) of this section, the property must be deposited in the Criminal Justice Revolving Account.

(b) When no law enforcement agency other than the Department of State Police participated in the seizure or forfeiture, or when the Department of State Police has entered into an agreement under subsection (4) of this section, the property must be deposited in the State Police Account.

(6) The seizing agency may sell as much property as may be needed to make the distributions required by subsection (1) of this section. The seizing agency shall make distributions to the Asset Forfeiture Oversight Account and the Illegal Drug Cleanup Fund that are required by subsection (1) of this section once every three months. The distributions are due within 20 days of the end of each quarter. Interest does not accrue on amounts that are paid within the period specified by this subsection.

- OR. REV. STAT. ANN. § 475.495 (2008): (1) The Illegal Drug Cleanup Fund is established separate and distinct from the General Fund in the State Treasury.

  (2) The following moneys shall be deposited into the State Treasury and credited to the Illegal Drug Cleanup Fund:

  (a) Moneys recovered or otherwise received from responsible parties for cleanup costs;

  (b) Moneys received from a state agency, local government unit or any agency of a local government unit for cleanup of illegal drug manufacturing sites, including moneys received from forfeiture proceeds under the provisions of ORS 475A.120 and 475A.126;

(c) Moneys received from the federal government for cleanup of illegal drug manufacturing sites; and

(d) Any penalty, fine or punitive damages recovered under ORS 475.435, 475.455 or 475.485.

(3) The State Treasurer may invest and reinvest moneys in the Illegal Drug Cleanup Fund in the manner provided by law. Interest earned by the fund shall be credited to the fund.

(4) The moneys in the Illegal Drug Cleanup Fund are appropriated continuously to the Department of Environmental Quality to be used as provided for in subsection (5) of this section.

(5) Moneys in the Illegal Drug Cleanup Fund may be used for the following purposes:

(a) Payment of the state's cleanup costs; and

(b) Funding any action or activity authorized by ORS 475.415 to 475.455, 475.475 and 475.485.

(6) The department may not expend more than $250,000 in each biennium of the forfeiture proceeds that are paid into the Illegal Drug Cleanup Fund by political subdivisions under the provisions of ORS 475A.120. If at the end of a biennium more than $250,000 has been paid into the Illegal Drug Cleanup Fund under the provisions of ORS 475A.120, the department shall refund to each political subdivision that made payments into the fund a pro rata share of the excess amount, based on the amount of forfeiture proceeds paid into the fund by the political subdivision.

- OR. REV. STAT. ANN. § 475A.120 (2008): (1) The provisions of this section apply to a forfeiting agency other than the state.

  (2) Except as otherwise provided by intergovernmental agreement and this section, a forfeiting agency may:

  (a) Sell, lease, lend or transfer forfeited property to any federal, state or local law enforcement agency or district attorney.

  (b) Sell forfeited property by public or other commercially reasonable sale and pay from the proceeds the expenses of keeping and selling the property.

  (c) Retain forfeited property.

(d) With written authorization from the district attorney for the county in which the property was seized, destroy any forfeited firearms or controlled substances.

(3) If the forfeiting agency is a political subdivision other than a county, the political subdivision shall enter into an agreement with the county pursuant to ORS chapter 190 to provide a portion of the forfeiture proceeds to the county. Any intergovernmental agreements or ordinances providing for the distribution of forfeiture proceeds in effect on July 24, 1989, shall remain valid unless changed by the parties.

(4) A forfeiting agency shall distribute forfeiture proceeds as follows:

(a) Costs shall be paid first, including costs, disbursements and attorney fees as defined in ORCP 68 A and special expenses, including the provision of lawful currency, incurred by any seizing or forfeiting agency in investigating and prosecuting a specific case. The forfeiting agency may pay expenses of servicing or maintaining the seized property under ORS 475A.045 (3) under the provisions of this paragraph. The forfeiting agency may not pay expenditures made in connection with the ordinary maintenance and operation of the seizing or forfeiting agency under the provisions of this paragraph.

(b) After payment of costs under paragraph (a) of this subsection, the forfeiting agency shall:

(A) Deduct an amount equal to five percent of the proceeds and deposit that amount in the Illegal Drug Cleanup Fund established by ORS 475.495 for the purposes specified in ORS 475.495 (5);

(B) Deduct an amount equal to 2.5 percent of the proceeds and deposit that amount in the Asset Forfeiture Oversight Account established by ORS 475A.160 for the purposes specified in ORS 475A.155;

(C) Deduct an amount equal to 20 percent of the proceeds and deposit that amount in the Oregon Criminal Justice Commission Account established under ORS 137.622 for disbursement to drug court programs as described in ORS 3.450; and

(D) Deduct an amount equal to 10 percent of the proceeds and deposit that amount in the State Commission on Children and Families Account established by ORS 417.733 for disbursement to relief nurseries as described in ORS 417.788.

(c) If the forfeiting agency has entered into an agreement with a county under subsection (3) of this section, after paying costs under paragraph (a) of this subsection and making the deductions required by paragraph (b) of this subsection, the forfeiting agency shall pay the county the amounts required by the agreement.

(d) After making all payments and deductions required by paragraphs (a) to (c) of this subsection, the forfeiting agency may use forfeiture proceeds, including amounts received by a county under paragraph (c) of this subsection and pursuant to an intergovernmental agreement entered into under ORS 475A.115, only for:

(A) The purchase of equipment necessary for the enforcement of laws relating to the unlawful delivery, distribution, manufacture or possession of controlled substances;

(B) Cash for use in law enforcement activities;

(C) Drug awareness and drug education programs offered in middle schools and high schools;

(D) The expenses of a forfeiting agency in operating joint narcotic operations with other forfeiting agencies pursuant to the terms of an intergovernmental agreement, including paying for rental space, utilities and office equipment; and
(E) Expenses of a district attorney in criminal prosecutions for unlawful delivery, distribution, manufacture or possession of controlled substances, as determined through intergovernmental agreement between the forfeiting agency and the district attorney.

(5) Notwithstanding subsection (4) of this section, growing equipment and laboratory equipment seized by a forfeiting agency that was used, or intended for use, in the manufacturing of controlled substances may be donated to a public school, community college or institution of higher education.

(6) A political subdivision shall sell as much property as may be needed to make the distributions required by subsection (4) of this section. Distributions required under subsection (4)(b) of this section must be made once every three months and are due within 20 days of the end of each quarter. No interest shall accrue on amounts that are paid within the period specified by this subsection.

(7) The forfeiting agency, and any agency which receives forfeited property or proceeds from the sale of forfeited property, shall maintain written documentation of each sale, decision to retain, transfer or other disposition.

(8) Forfeiture counsel shall report each forfeiture to the Asset Forfeiture Oversight Advisory Committee as soon as reasonably possible after the conclusion of forfeiture proceedings, whether or not the forfeiture results in an entry of judgment under ORS 475A.110. The committee shall develop and make available forms for the purpose of reporting forfeitures.

(9) Law enforcement agencies shall supply to forfeiture counsel all information requested by forfeiture counsel necessary for the preparation of the report required by subsection (8) of this section.

(10) Political subdivisions of the state who receive forfeiture proceeds under this section shall submit a report to the Asset Forfeiture Oversight Advisory Committee for any year in which those proceeds are received. The committee shall develop and make available forms for the purpose of those reports. The forms shall require the political subdivision to report on how proceeds received by the political subdivision have been or will be used, and such other information as may be requested by the committee. Reports shall be submitted each December 15 for the last ending fiscal year of the political subdivision.

(11) This section applies only to forfeiture proceeds arising out of prohibited conduct as defined by ORS 475A.005 (11), and does not apply to proceeds from forfeiture based on other conduct.

- OR. REV. STAT. ANN. § 475A.126(1), (3)(A) (2008): 1) The provisions of this section apply only when the forfeiting agency is the state.

  (2) Except as otherwise provided by intergovernmental agreement and this section, a forfeiting agency may:

  (a) Sell, lease, lend or transfer forfeited property to any federal, state or local law enforcement agency or district attorney.

  (b) Sell forfeited property by public or other commercially reasonable sale and pay from the proceeds the expenses of keeping and selling the property.

  (c) Retain forfeited property.

  (d) With written authorization from the district attorney for the county in which the property was seized, destroy any forfeited firearms or controlled substances.

  (3) The forfeiting agency shall distribute forfeiture proceeds as follows:

  (a) Costs shall be paid first, including costs, disbursements and attorney fees as defined in ORCP 68 A and special expenses, including the provision of lawful currency, incurred by any seizing or forfeiting agency in investigating and prosecuting a specific case. The forfeiting agency may pay expenses of servicing or maintaining the seized property under ORS 475A.045 (3) under the provisions of this paragraph. The forfeiting agency may not pay expenditures made in connection with the ordinary maintenance and operation of the seizing or forfeiting agency under the provisions of this paragraph. Any amount paid to

or retained by the Department of Justice under this paragraph shall be deposited in the Criminal Justice Revolving Account in the State Treasury. Any amount paid to or retained by the Oregon State Police under this paragraph shall be deposited in the State Police Account.

(b) After payment of costs under paragraph (a) of this subsection, the forfeiting agency shall:

(A) Deduct an amount equal to 10 percent of the proceeds and deposit that amount in the Illegal Drug Cleanup Fund established by ORS 475.495 for the purposes specified in ORS 475.495 (5);

(B) Deduct an amount equal to three percent of the proceeds, not to exceed $50,000 in a biennium, and deposit that amount in the Asset Forfeiture Oversight Account established by ORS 475A.160 for the purposes specified in ORS 475A.155;

(C) Deduct an amount equal to 20 percent of the proceeds and deposit that amount in the Oregon Criminal Justice Commission Account established under ORS 137.662 for disbursement to drug court programs as described in ORS 3.450; and

(D) Deduct an amount equal to 10 percent of the proceeds and deposit that amount in the State Commission on Children and Families Account established by ORS 471.733 for disbursement to relief nurseries as described in ORS 417.788.

(c) If the forfeiting agency has entered into an intergovernmental agreement with a political subdivision under ORS 475A.115, or has entered into an agreement with any other law enforcement agency of the state relating to distribution of forfeiture proceeds, after paying costs under paragraph (a) of this subsection and making the deductions required by paragraph (b) of this subsection, the forfeiting agency shall pay an equitable portion of the forfeiture proceeds to each agency participating in the seizure or forfeiture as provided by the agreement.

(d) After making all payments and deductions required by paragraphs (a) to (c) of this subsection, the forfeiting agency shall distribute the remaining proceeds as follows:

(A) If no law enforcement agency other than the Department of Justice participated in the seizure or forfeiture, the remaining proceeds, and proceeds received by the Department of Justice under paragraph (c) of this subsection, shall be divided between the Criminal Justice Revolving Account and the Special Crime and Forfeiture Account established by ORS 475A.130 according to the following schedule:

(i) One hundred percent of the first $200,000 accumulated shall be deposited in the Criminal Justice Revolving Account.

(ii) Seventy-five percent of the next $200,000 shall be deposited in the Criminal Justice Revolving Account and the balance in the Special Crime and Forfeiture Account.

(iii) Fifty percent of the next $200,000 shall be deposited in the Criminal Justice Revolving Account and the balance in the Special Crime and Forfeiture Account.

(iv) Twenty-five percent of the next $200,000 shall be deposited in the Criminal Justice Revolving Account and the balance in the Special Crime and Forfeiture Account.

(v) One hundred percent of all additional sums shall be deposited in the Special Crime and Forfeiture Account.

(B) If no law enforcement agency other than the Department of State Police participated in the seizure or forfeiture, the remaining proceeds, and proceeds received by the Department of State Police under paragraph (c) of this subsection, shall be divided between the State Police Account and the Special Crime and Forfeiture Account according to the following schedule:

(i) One hundred percent of the first $600,000 accumulated shall be deposited in the State Police Account.

(ii) Seventy-five percent of the next $300,000 shall be deposited in the State Police Account and the balance in the Special Crime and Forfeiture Account.

(iii) Fifty percent of the next $200,000 shall be deposited in the State Police Account and the balance in the Special Crime and Forfeiture Account.

(iv) Twenty-five percent of the next $200,000 shall be deposited in the State Police Account and the balance in the Special Crime and Forfeiture Account.

(v) One hundred percent of all additional sums shall be deposited in the Special Crime and Forfeiture Account.

(4) Forfeiture proceeds distributed under subsection (3)(d) of this section may be used only for:

(a) The purchase of equipment necessary for the enforcement of laws relating to the unlawful delivery, distribution, manufacture or possession of controlled substances;

(b) Cash for use in law enforcement activities;

(c) Drug awareness and drug education programs offered in middle schools and high schools; and

(d) The expenses of a forfeiting agency in operating joint narcotic operations with other forfeiting agencies pursuant to the terms of an intergovernmental agreement, including paying for rental space, utilities and office equipment.

(5) A forfeiting agency shall sell as much property as may be needed to make the distributions required by subsection (3) of this section. Distributions required under subsection (3)(b) of this section must be made once every three months and are due within 20 days of the end of each quarter. No interest shall accrue on amounts that are paid within the period specified by this subsection.

(6) The forfeiting agency, and any agency that receives forfeited property or proceeds from the sale of forfeited property, shall maintain written documentation of each sale, decision to retain, transfer or other disposition of the property or proceeds.

(7) Forfeiture counsel shall report each forfeiture to the Asset Forfeiture Oversight Advisory Committee as soon as reasonably possible after the conclusion of forfeiture proceedings, whether or not the forfeiture results in an entry of judgment under ORS 475A.110. The committee shall develop and make available forms for the purpose of reporting forfeitures.

(8) Law enforcement agencies shall supply to forfeiture counsel all information requested by forfeiture counsel necessary for the preparation of the report required by subsection (7) of this section.

- OR. ADMIN. R. § 340-140-0070 (2008): The initial funds needed to support the operation of this program will be provided by the Department:

  (1) Federal law enforcement agencies will be asked to repay the full cost of the cleanup.

  (2) Any agency that is invoiced for cleanup costs must make payment within 30 days, or further assistance may be withheld.

PENNSYLVANIA

- NOT FOUND

RHODE ISLAND

- NOT FOUND

SOUTH CAROLINA

- NOT FOUND

SOUTH DAKOTA

- S.D. ADMIN. R. 74:05:12:06 (2008): Eligible brownfields revolving loan subfund activities include cleanup actions associated with removing, mitigating, or preventing the release or threat of release of hazardous substances, regulated substances, contaminants, or pollutants as allowed under the Act. In addition, these activities may include actions at mine-scarred lands, qualifying petroleum sites, and qualifying sites impacted by controlled substances including:

  (1) Fences, warning signs, or other security or site control precautions;

  (2) Drainage controls;

  (3) Stabilization of berms, dikes, or impoundments or drainage or closing lagoons;

  (4) Capping of contaminated soils;

  (5) Use of chemicals and other materials to retard the spread of the release of a hazardous substance, petroleum, pollutant, or contaminant or mitigate its effects;

  (6) Excavation, consolidation, or removal of contaminated soils from drainages or other areas;

  (7) Removal of drums, barrels, tanks, or other bulk containers that contain or may contain hazardous substances, pollutants, or contaminants;

  (8) Containment, treatment, disposal, or incineration of hazardous materials;

  (9) Provisions of alternative water supply where necessary to reduce exposure to contaminated household water;

  (10) Site monitoring activities, including sampling and analysis, that are necessary during the cleanup process, including determination of effectiveness of a cleanup;

  (11) Costs associated with meeting public participation, worker health and safety, and interagency coordination requirements;

(12) Removal activities, including demolition or site preparation or both, that are part of site cleanup;

(13) Purchase of environmental insurance; or

(14) Other activities as approved by the Act.

Brownfields revolving loan subfund funds may not be used for precleanup environmental response activities, such as site assessment, identification, or characterization.

TENNESSEE

- NOT FOUND

TEXAS

- NOT FOUND

UTAH

- NOT FOUND

VERMONT

- NOT FOUND

VIRGINIA

- NOT FOUND

WASHINGTON

- WASH. REV. CODE ANN. § 64.44.060 (West 2008): (1) A contractor, supervisor, or worker may not perform decontamination, demolition, or disposal work unless issued a certificate by the state department of health. The department shall establish performance standards for contractors, supervisors, and workers by rule in accordance with chapter 34.05 RCW, the administrative procedure act. The department shall train and test, or may approve courses to train and test, contractors, supervisors, and workers on the essential elements in assessing property used as an illegal controlled substances manufacturing or storage site to determine hazard reduction measures needed, techniques for adequately reducing contaminants, use of personal protective equipment, methods for proper decontamination, demolition, removal, and disposal of contaminated property, and relevant federal and state regulations. Upon successful completion of the training, and after a background check, the contractor, supervisor, or worker shall be certified.

(2) The department may require the successful completion of annual refresher courses provided or approved by the department for the continued certification of the contractor or employee.

(3) The department shall provide for reciprocal certification of any individual trained to engage in decontamination, demolition, or disposal work in another state when the prior training is shown to be substantially similar to the training required by the department. The department may require such individuals to take an examination or refresher course before certification.

(4) The department may deny, suspend, revoke, or place restrictions on a certificate for failure to comply with the requirements of this chapter or any rule adopted pursuant to this chapter. A certificate may be denied, suspended, revoked, or have restrictions placed on it on any of the following grounds:

(a) Failing to perform decontamination, demolition, or disposal work under the supervision of trained personnel;

(b) Failing to perform decontamination, demolition, or disposal work using department of health certified decontamination personnel;

(c) Failing to file a work plan;

(d) Failing to perform work pursuant to the work plan;

(e) Failing to perform work that meets the requirements of the department and the requirements of the local health officers;

(f) Failing to properly dispose of contaminated property;

(g) Committing fraud or misrepresentation in: (i) Applying for or obtaining a certification, recertification, or reinstatement; (ii) seeking approval of a work plan; and (iii) documenting completion of work to the department or local health officer;

(h) Failing the evaluation and inspection of decontamination projects pursuant to section 208 of this act; or

(i) If the person has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be

automatic upon the department's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

(5) A contractor, supervisor, or worker who violates any provision of this chapter may be assessed a fine not to exceed five hundred dollars for each violation.

(6) The department of health shall prescribe fees as provided for in RCW 43.70.250 for: The issuance and renewal of certificates, conducting background checks of applicants, the administration of examinations, and the review of training courses.

(7) The decontamination account is hereby established in the state treasury. All fees collected under this chapter shall be deposited in this account. Moneys in the account may only be spent after appropriation for costs incurred by the department in the administration and enforcement of this chapter.

- WASH. REV. CODE ANN. § 70.105D.070 (West 2008): (1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

  (2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:

  (i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

  (ii) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;

  (iii) The hazardous waste cleanup program required under this chapter;

  (iv) State matching funds required under the federal cleanup law;

  (v) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(vi) State government programs for the safe reduction, recycling, or disposal of hazardous wastes from households, small businesses, and agriculture;

(vii) Hazardous materials emergency response training;

(viii) Water and environmental health protection and monitoring programs;

(ix) Programs authorized under chapter 70.146 RCW;

(x) A public participation program, including regional citizen advisory committees;

(xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more expeditious or enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship; and

(xii) Development and demonstration of alternative management technologies designed to carry out the hazardous waste management priorities of RCW 70.105.150.

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW 82.21. 030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority:

(i) Remedial actions;

(ii) Hazardous waste plans and programs under chapter 70.105 RCW;

(iii) Solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(iv) Funds for a program to assist in the assessment and cleanup of sites of methamphetamine production, but not to be used for the initial containment of such sites, consistent with the responsibilities and intent of RCW 69.50.511; and

(v) Cleanup and disposal of hazardous substances from abandoned or derelict vessels, defined for the purposes of this section as vessels that have little or no value and either

have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel, that pose a threat to human health or the environment.

- WASH. ADMIN. CODE § 173-322-110 (2008): (1) Purpose. The purpose of the methamphetamine lab site assessment and cleanup grant program is to provide funding to local health districts and departments that assess and cleanup sites of methamphetamine production. The program is not intended to assist local health districts and departments in the initial containment of methamphetamine lab sites.

  (2) Applicant eligibility. To be eligible for a methamphetamine lab site assessment and cleanup grant, the applicant must meet the following requirements:

  (a) The applicant must be a local health district or department;

  (b) The methamphetamine lab site must be located within the jurisdiction of the applicant; and

  (c) The scope of work for the assessment or cleanup of a methamphetamine lab site must conform to chapter 246-205 WAC and applicable board of health and department of health guidelines. The scope of work for the methamphetamine lab site assessment must also conform to WAC 173-340-320 and applicable department of ecology guidelines.

  (3) Application process.

  (a) Submittal. The application for a methamphetamine lab site assessment and cleanup grant may be submitted to the department at any time.

  (b) Content. The grant application must be completed on forms provided by the department and include the following:

  (i) Sufficient evidence to demonstrate compliance with the applicant eligibility requirements in subsection (2) of this section;

  (ii) A description of the work completed under the prior grant agreement, if applicable;

  (iii) A description of the anticipated work to be completed under the grant;

  (iv) A budget for the anticipated work;

  (v) A description of the environmental benefits of the project;

(vi) A description of all current or potential sources of funding including, but not limited to, other grants or loans and proceeds from contribution or insurance claims; and

(vii) A commitment by the applicant to provide the required matching funds and a description of the sources of those funds.

(4) Application evaluation and prioritization.

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant.

(b) When pending grant applications or anticipated demand for methamphetamine lab site assessment and cleanup grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

(i) Potential public health or environmental threat from the methamphetamine lab sites;

(ii) Ownership of the methamphetamine lab sites. Publicly owned sites will receive priority over privately owned sites; and

(iii) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

(5) Cost eligibility. Costs must be eligible under this section and be approved by the department in order to be eligible for reimbursement.

(a) Eligible costs. Eligible costs for methamphetamine lab site assessment and cleanup grants include, but are not limited to, the reasonable costs for the following:

(i) Posting the property, as defined in WAC 246-205-010 and required under WAC 246-205-520;

(ii) Inspecting the property and determining whether the property is contaminated, as required under WAC 246-205-530;

(iii) Posting contaminated property, as defined in WAC 246-205-010 and required under WAC 246-205-560;

(iv) Notifying occupants, property owners, and other persons with an interest in the contaminated property, as required under WAC 246-205-560;

(v) Cleaning up contaminated publicly owned property, as required under WAC 246-205-570, including performing a precleanup site assessment, developing and implementing the cleanup work plan, performing a post-cleanup site assessment, and developing a cleanup report. Eligible costs include the costs incurred by an authorized contractor and the cost of overseeing the work performed by the contractor;

(vi) Overseeing the cleanup of contaminated privately owned property, as required under WAC 246-205-570 and 246-205-580, including reviewing cleanup work plans and reports and inspecting the property during and subsequent to the cleanup;

(vii) Disposal of contaminated property, as defined in WAC 246-205-010, if the property is publicly owned;

(viii) Releasing the property for use, as required under WAC 246-205-580;

(ix) County fees related to deed notification; and

(x) Equipment and training, if approved by the department in advance.

(b) Ineligible costs. Ineligible costs for methamphetamine lab site assessment and cleanup grants include, but are not limited to, the following:

(i) Retroactive costs, except as provided under subsection (6) of this section;

(ii) Initial containment of methamphetamine lab sites, as defined in WAC 173-322-020;

(iii) Restricting access to privately owned property, except as required under chapter 246-205 WAC;

(iv) Cleaning up privately owned contaminated property;

(v) Disposal of contaminated property, as defined in WAC 246-205-010, if the property is privately owned;

(vi) Disposal of property that is not contaminated, as defined in WAC 246- 205-010;

(vii) Natural resource damage assessment costs and natural resource damages;

(viii) Legal costs including, but not limited to, the cost of pursuing contribution or insurance claims, the cost of administrative hearings, the cost of pursuing penalties or civil or criminal actions against persons, the cost of penalties incurred by the applicant, the cost of defending actions taken against the applicant, and attorney fees;

(ix) Education and outreach activities; and

(x) In-kind services.

(6) Retroactive cost eligibility. Retroactive costs are not eligible for reimbursement unless:

(a) The department unreasonably delays the processing of the grant application; or

(b) The department provided only partial funding under a prior grant agreement because funds were not available.

(7) Funding and reimbursement.

(a) Adjustment of eligible costs. If the applicant receives proceeds from a contribution claim before the effective date of the grant agreement, then the department shall deduct those proceeds from the amount eligible for grant funding, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

(b) Funding of eligible costs. The applicant shall be eligible to receive funding for up to one hundred percent of eligible methamphetamine lab site assessment costs. Except as provided under (c) of this subsection, the applicant shall also be eligible to receive funding for up to fifty percent of eligible methamphetamine lab site cleanup costs.

(c) Additional funding. If the applicant is a county, or is located within a county, that is economically disadvantaged, as defined in WAC 173-322-020, then the applicant shall be eligible to receive funding for up to seventy-five percent of eligible methamphetamine lab site cleanup costs.

(d) Match requirement. The applicant shall fund those eligible costs not funded by the department under the grant. The applicant may not use in-kind services or proceeds from contribution claims to meet the match requirement.

(e) Reimbursement of grant funds. If the applicant receives proceeds from a contribution claim after the effective date of the grant agreement, then the applicant shall reimburse the department for a proportional share of those proceeds, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

WEST VIRGINIA

- W. VA. CODE ANN. § 14-2A-3 (West 2008) (as amended by 2008 S.B. 659): As used in this article, the term:

  (a) "Claimant" means any of the following persons, whether residents or nonresidents of this state, who claim an award of compensation under this article:

  (1) A victim: *Provided*, That the term "victim" does not include a nonresident of this state where the criminally injurious act did not occur in this state;

  (2) A dependent, spouse or minor child of a deceased victim; or in the event that the deceased victim is a minor, the parents, legal guardians and siblings of the victim;

  (3) A third person, other than a collateral source, who legally assumes or voluntarily pays the obligations of a victim, or of a dependent of a victim, which obligations are incurred as a result of the criminally injurious conduct that is the subject of the claim;

  (4) A person who is authorized to act on behalf of a victim, dependent or a third person who is not a collateral source, including, but not limited to, assignees, persons holding power of attorney or other persons who hold authority to make or submit claims in place of or on behalf of a victim, a dependent or third person who is not a collateral source; and, in the event that the victim, dependent or third person who is not a collateral source is a minor or other legally incompetent person, the duly qualified fiduciary of the minor; and

  (5) A person who is a secondary victim in need of mental health counseling due to the person's exposure to the crime committed. An award to a secondary victim may not exceed one thousand dollars.

  <u>(6) A person who owns real property damaged by the operation of a methamphetamine laboratory without the knowledge or consent of the owner of the real property.</u>

  (b) "Collateral source" means a source of benefits or advantages for economic loss otherwise compensable that the victim or claimant has received, or that is readily available to him or her, from any of the following sources:

  (1) The offender, including any restitution received from the offender pursuant to an order by a court of law sentencing the offender or placing him or her on probation following a conviction in a criminal case arising from the criminally injurious act for which a claim for compensation is made;

(2) The government of the United States or any of its agencies, a state or any of its political subdivisions or an instrumentality of two or more states;

(3) Social Security, Medicare and Medicaid;

(4) State-required, temporary, nonoccupational disability insurance; other disability insurance;

(5) Workers' compensation;

(6) Wage continuation programs of any employer;

(7) Proceeds of a contract of insurance payable to the victim or claimant for loss that was sustained because of the criminally injurious conduct;

(8) A contract providing prepaid hospital and other health care services or benefits for disability; and

(9) That portion of the proceeds of all contracts of insurance payable to the claimant on account of the death of the victim which exceeds twenty-five thousand dollars.

(c) "Criminally injurious conduct" means conduct that occurs or is attempted in this state or in any state not having a victim compensation program which by its nature poses a substantial threat of personal injury or death and is punishable by fine or imprisonment or death or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct also includes an act of terrorism, as defined in 18 U. S. C.§2331, committed outside of the United States against a resident of this state. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance or use of a motor vehicle, except when the person engaging in the conduct intended to cause personal injury or death, or when the person engaging in the conduct committed negligent homicide, driving under the influence of alcohol, controlled substances or drugs, reckless driving or when the person leaves the scene of the accident.

(d) "Dependent" means an individual who received over half of his or her support from the victim. For the purpose of determining whether an individual received over half of his or her support from the victim, there shall be taken into account the amount of support received from the victim as compared to the entire amount of support which the individual received from all sources, including support which the individual himself or herself supplied. The term "support" includes, but is not limited to, food, shelter, clothing, medical and dental care and education. The term "dependent" includes a child of the victim born after his or her death.

(e) "Economic loss" means economic detriment consisting only of allowable expense, work loss and replacement services loss. If criminally injurious conduct causes death, economic loss includes a dependent's economic loss and a dependent's replacement services loss. Noneconomic detriment is not economic loss; however, economic loss may be caused by pain and suffering or physical impairment. For purposes of this article, the term "economic loss" includes a lost scholarship as defined in this section.

(f)(1) "Allowable expense" means reasonable charges incurred or to be incurred for reasonably needed products, services and accommodations, including those for medical care, mental health counseling, prosthetic devices, eye glasses, dentures, rehabilitation and other remedial treatment and care.

(2) Allowable expense includes a total charge not in excess of seven thousand dollars for expenses in any way related to funerals, cremations and burials. It does not include that portion of a charge for a room in a hospital, clinic, convalescent home, nursing home or any other institution engaged in providing nursing care and related services in excess of a reasonable and customary charge for semiprivate accommodations, unless accommodations other than semiprivate accommodations are medically required.

(3) Allowable expense also includes:

(A) A charge, not to exceed five thousand dollars, for cleanup of real property damaged by a methamphetamine laboratory or a charge, not to exceed one thousand dollars, for any other crime scene cleanup;

(B) Victim relocation costs, not to exceed one thousand dollars; and

(C) Reasonable travel expenses, not to exceed one thousand dollars, for a claimant to attend court proceedings that are conducted for the prosecution of the offender.

(D) Reasonable travel expenses for a claimant to return a person who is a minor or incapacitated adult who has been unlawfully removed from this state to another state or country, if such removal constitutes a crime under the laws of this state. Reasonable travel expenses to another state for such purpose may not exceed two thousand dollars and reasonable travel expenses for such purpose to another county may not exceed three thousand dollars.

(g) "Work loss" means loss of income from work that the injured person would have performed if he or she had not been injured and expenses reasonably incurred or to be incurred by him or her to obtain services in lieu of those he or she would have performed for income, reduced by any income from substitute work actually performed or to be

performed by him or her or by income he or she would have earned in available appropriate substitute work that he or she was capable of performing but unreasonably failed to undertake. "Work loss" also includes loss of income from work by the parent or legal guardian of a minor victim who must miss work to take care of the minor victim.

(h) "Replacement services loss" means expenses reasonably incurred or to be incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of himself or herself or his or her family, if he or she had not been injured.

(I) "Dependent's economic loss" means loss after a victim's death of contributions or things of economic value to his or her dependents, not including services they would have received from the victim if he or she had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death.

(j) "Dependent's replacement service loss" means loss reasonably incurred or to be incurred by dependents after a victim's death in obtaining ordinary and necessary services in lieu of those the victim would have performed for their benefit if he or she had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death and not subtracted in calculating dependent's economic loss.

(k) "Victim" means a person who suffers personal injury or death as a result of any one of the following: (1) Criminally injurious conduct; (2) the good faith effort of the person to prevent criminally injurious conduct; or (3) the good faith effort of the person to apprehend a person that the injured person has observed engaging in criminally injurious conduct or who the injured person has reasonable cause to believe has engaged in criminally injurious conduct immediately prior to the attempted apprehension. <u>"Victim" shall also include the owner of real property damaged by the operation of a methamphetamine laboratory.</u>

(l) "Contributory misconduct" means any conduct of the claimant, or of the victim through whom the claimant claims an award, that is unlawful or intentionally tortious and that, without regard to the conduct's proximity in time or space to the criminally injurious conduct, has causal relationship to the criminally injurious conduct that is the basis of the claim and shall also include the voluntary intoxication of the claimant, either by the consumption of alcohol or the use of any controlled substance when the intoxication has a causal connection or relationship to the injury sustained. The voluntary intoxication of a victim is not a defense against the estate of a deceased victim.

(m) "Lost scholarship" means a scholarship, academic award, stipend or other monetary scholastic assistance which had been awarded or conferred upon a victim in conjunction with a post- secondary school educational program and which the victim is unable to

receive or use, in whole or in part, due to injuries received from criminally injurious conduct.

WISCONSIN

- NOT FOUND

WYOMING

- WYO. STAT. ANN. § 1-40-118 (2008): (a) In addition to any other powers specified in this act the division shall oversee the distribution of federal and state funds under its control, to eligible crime victim service providers, including funds received under the federal Victims of Crime Act of 1984.

  (b) For purposes of this section "crime victim service provider" means any program operated by a public agency or nonprofit organization or any combination thereof which provides comprehensive services to victims of crime, including but not limited to:

  (i) Crisis intervention services;

  (ii) Informing victims and witnesses of the case status and progress;

  (iii) Assistance in participating in criminal justice proceedings;

  (iv) Performing advocate duties for crime victims;

  (v) Assisting victims in recovering property damaged or stolen and in obtaining restitution or compensation for medical and other expenses incurred as a result of crime;

  (vi) Developing community resources to assist victims of crime;

  (vii) Assisting victims of crime in the preparation and presentation of claims under the Crime Victims Compensation Act.

  (c) In establishing priorities the division shall follow requirements regarding prioritization that are established by the funding authority.

  (d) The division shall by rule establish a method for distributing monies to crime victim service providers. The division's rules and regulations shall reflect the following factors in determining the distribution formula: population, needs assessment, regional cost differences and any requirements promulgated by the granting source.

  (i) to (iii) Repealed by Laws 1998, Sp. Sess., ch. 81, § 3.

(e) In determining whether a victim service provider is eligible to receive grants under subsection (d) of this section, the primary consideration shall be whether the eligibility requirements of the granting source are met.

(i) and (ii) Repealed by Laws 1998, Sp. Sess., ch. 81, § 3.

(f) Funds distributed under this section shall supplement, not supplant, existing victim or witness programs throughout the state.

(g) To the extent the legislature provides funding for victim assistance providers that serve victims of all crimes, the division of victim services shall:

(i) Distribute the state funding provided for victim assistance providers as follows:

(A) No less than two percent (2%) of the total amount of state funding shall be distributed to each county and the Wind River Indian Reservation for victim assistance providers within the county or within the Wind River Indian Reservation that meet the requirements established by the division of victim services;

(B) Of the remaining state funding under this subsection, amounts shall be distributed to the victim assistance providers within the counties and the Wind River Indian Reservation on a proportional basis according to each county's and the reservation's population as established in the most recent federal decennial census. For purposes of the distribution under this subparagraph, the population residing on the Wind River Indian Reservation shall be determined separate from the balance of the population of Fremont county.

(C) If funds have been returned to the division pursuant to unfulfilled contracts under this subsection at the end of the fiscal year, prior to reversion pursuant to W.S. 9-2-1008, 9-2-1012(e) and 9-4-207(a), a law enforcement agency that has carried out a clandestine laboratory operation remediation may apply for compensation under this subsection for any remediation expenses not otherwise collected pursuant to W.S. 35-9-158(a). The maximum amount payable pursuant to this subsection to a law enforcement agency that has carried out a clandestine laboratory operation remediation shall be the amount set forth in the court approved expense report as provided under W.S. 35-9-158(a) minus amounts collected from other sources pursuant to W.S. 35-9-158(a).

(ii) Require victim assistance providers to:

(A) Provide the services specified under subsection (a) of this section;

(B) Advocate to ensure victims are allowed to exercise their rights under the victims bill of rights established in W.S. 1-40-203;

(C) Submit their long-term strategic plans to the division of victim services for approval.

(iii) Establish minimum program standards and uniform reporting procedures for victim assistance providers that receive state funding under this subsection through rules and regulations adopted in accordance with W.S. 9-1-638(a)(vii).

- WYO. STAT. ANN. § 35-9-158 (2008): (a) The decision to commence a civil action to recover expenses shall be made by the state, political subdivision of the state or other unit of local government, including local emergency response authorities and regional response teams, in consultation with the attorney general or county or municipal attorney as appropriate. With respect to a civil action to recover expenses for a clandestine laboratory operation incident, the governing body shall first make such claim against the party responsible for the clandestine laboratory operation and shall use the proceeds of any asset forfeiture directly related to the building or structure containing the clandestine laboratory to offset expenses, including expenses for remediation of the site. Claims of expenses for remediation for a clandestine laboratory operation incident may be made against the owner of a building or structure containing a clandestine laboratory operation only as follows:

  (i) The law enforcement agency acting as an emergency responder shall keep an accurate account of the expenses incurred in carrying out the remediation and shall report the actions and present a statement of the expenses incurred and the amount received from any salvage sale to the court for approval and allowance;

  (ii) The court shall examine, correct, if necessary, and allow the expense account to the extent the expenses exceed those recovered from the party responsible for the clandestine laboratory operation. If the owner did not know or could not with reasonable diligence have known of the clandestine laboratory operation, the amount recoverable from the owner shall be limited to one percent (1%) of the fair market value as determined by the county assessor of that portion of the building, structure or land declared uninhabitable by the incident commander;

  (iii) The amount allowed by the court constitutes a lien against the real property on which a clandestine laboratory operation incident occurred or was situated. If the amount is not paid by the owner within six (6) months after the amount has been examined and approved by the court, the real estate may be sold under court order by the county sheriff in the manner provided by law for the sale of real estate upon execution;

(iv) The proceeds of the sale shall be paid into the treasury of the governing body of the law enforcement agency acting as the emergency responder. If the amount received as salvage or upon sale exceeds the expenses allowed by the court, the court shall direct payment of the surplus to the previous owner for his use and benefit;

(v) Whenever any debt which is a lien pursuant to this subsection is paid and satisfied, the law enforcement agency acting as an emergency responder shall file notice of satisfaction of the lien statement in the office of the county clerk of any county in which the lien is filed; and

(vi) If the expenses of the law enforcement agency exceed the amount allowed by the court pursuant to paragraph (ii) of this subsection, the law enforcement agency acting as an emergency responder may apply for reimbursement of the excess expenses from the funds as authorized by W.S. 1-40-118(g)(i)(C). If the expenses further exceed amounts available under W.S. 1-40-118(g)(i)(C), the emergency responder may apply for reimbursement from the clandestine laboratory remediation account created pursuant to W.S. 35-9-159(f).

(b) Prior to commencing a civil action for recovery of expenses pursuant to this act, the governmental entity shall afford the person alleged to owe those expenses a reasonable opportunity to engage in nonbinding mediation. Each party to mediation shall bear his own costs and expenses, including a proportionate share of the fees of the mediator.

(c) In the event that the attorney general or county or municipal attorney prevails in a civil action for reimbursement under this act, the court shall award costs of collection including reasonable attorney's fees, investigation expenses and litigation expenses.

(d) Any person who receives remuneration for the emergency response expenses pursuant to any other federal or state law shall be precluded from recovering reimbursement for those expenses under this act. Nothing in this act shall otherwise affect or modify in any way the obligations or liability of any person under any other provision of state or federal law, including common law, for damages, injury or loss resulting from the release of any hazardous material or for remedial action or the expenses of remedial action for the release.

- WYO. STAT. ANN. § 35-9-159(f) (2008): (f) There is created the clandestine laboratory remediation account to be administered by the attorney general. A local law enforcement agency acting as an emergency responder may apply for reimbursement from the account for expenses incurred in responding to a clandestine laboratory operation incident as provided in W.S. 35-9-158(a)(vi).